1810.

SUPREME COURT OF THE UNITED STATES.

No. 175.

ANNA TUFTS, APPELLANT,

vs.

CHARLES TUFTS AND EMERSON WHEELER.

ON APPEAL FROM THE CIRCUIT COURT UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS.

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UNITED STATES OF AMERICA,
Massachusetts district:

At the circuit court of the United States for the first circuit, begun and holden at Boston, within and for the district of Massachusetts, on Friday, the fifteenth day of October, in the year of our Lord one thousand eight hundred and forty-seven, before the honorable Levi Woodbury, associate justice, honorable Peleg Sprague, district judge.

Plaintiff's bill.

To the judges of the circuit court of the United States, for the district of Massachusetts.

Anna Tufts, of Groton, in the State of Connecticut, widow, and a citizen of the said State of Connecticut, brings this her bill of complaint against Charles Tufts, of Cambridge, in the district aforesaid, book-keeper, and Emerson Wheeler, of Brighton, in the same district, and citizens of the State of Massachusetts.

And thereupon your oratrix complains and says, that her late husband, Peter Tufts, the younger, late of said Cambridge, deceased, at the time of his death was seized and possessed of and entitled unto certain parcels of land and real estate, that is to say: a certain piece or parcel of land, situate in said Cambridge, and bounded westerly on the road leading from Cambridgeport to the Powder magazine in said Cambridge; southerly on land of Jonas Pierce; easterly on land formerly of the heirs of Francis Dana, esq., deceased; containing ten acres and a quarter, more or less, with the privileges and appurtenances thereto belonging, reserving the right to Jonas Pierce to pass and repass to and from his marsh, to carry off hay, over the southerly end of the above described premises. A certain other piece or parcel of land, situate in said Cambridge, bounded southeasterly on the road leading to the Powder magazine aforesaid; easterly on land formerly of Thomas Short and others; northerly on land formerly of Jacob Wyeth and others; northwesterly, westerly and southwesterly on a promontory way or salt marsh, formerly of Ephraim Cutter, the heirs of Joseph Adams, and sundry other persons, until it comes to the first mentioned road leading to the Powder magazine, or however otherwise the same may be bounded, with all the privileges and appurtenances to the same belonging, containing twelve acres, more or less. A certain other tract or parcel of salt marsh land, situate in said Cambridge, containing four acres and sixteen poles, more or less; bounded northwesterly on land formerly of Ebenezer Hall; northeasterly on land formerly of said Francis Dana, deceased; southeasterly on land formerly of Leonard Stone; and southwesterly on Charles river; with all the privileges and appurtenances thereto belonging. A certain other tract or parcel of land (salt marsh) situate in said Cambridge, southerly of Captain's island, bounded southwesterly by Charles river; northwesterly by marsh land formerly of Samuel Tufts; northeasterly by said Captain's island; and southeasterly by land formerly of the Commonwealth of Massachusetts, a wharf to the said Powder

magazine; containing about one-third of an acre, more or less. And a certain other tract or parcel of salt marsh land, bounded southwesterly on Charles river; northwesterly on said wharf and land formerly of said Commonwealth; northwesterly on said Captain's island; and southeasterly on other land formerly of said Peter Tufts, to said Charles river; containing one acre, more or less, with the privileges and appurtenances thereto belonging, to the said tract or parcel of land first mentioned, being the same which was conveyed to said Peter Tufts by John Palmer, by his deed dated the twenty-fourth day of December, in the year of our Lord eighteen hundred and eighteen; the tract or parcel of land secondly above described, being the same which was conveyed to the said Tufts by the said Palmer, by his other deed dated in the year of our Lord eighteen hundred and twenty-one; the said tract or parcel of land thirdly above described, being the same which was conveyed to said Peter Tufts by Jazanias Cooke, by his deed dated the twenty-second day of June, in the year of our Lord eighteen hundred and eighteen; and the parts or parcels of land fourthly and fifthly above described, being the same which were conveyed by Jonas Peirce to the said Peter Tufts, by the deed of the said Peirce, dated the seventh day of January, in the year of our Lord eighteen hundred and eighteen.

And your oratrix further shews, that the said Peter Tufts made his last will and testament, and therein and thereby named and appointed your oratrix to be the executrix thereof, and authorized her to sell so much of his real estate as should be necessary to pay all his just debts and legacies, and incidental charges in settling his estate, at private or public sale, as your oratrix should deem best, and died on the 17th of May, A. D. 1825; which last will and testament, after the death of said Peter Tufts, was duly proved and established and allowed before and by the court of probate, in and for the county of Middlesex, in said State of Massachusetts, and your oratrix accepted the trust of executrix under the said will.

And your oratrix further shews, that the said Peter Tufts at the time of his death was, as it afterwards appeared, insolvent, and the real and personal estate left by him at his death was insufficient to pay and satisfy his just debts; and it became and was necessary to sell the tracts and parcels of land above mentioned and described, for the payment of the debts of the said Peter Tufts, and thereupon your oratrix made sale thereof at public auction, to Ammi Cutter, a cousin of your oratrix, and Daniel Cummings, who were the highest bidders therefor, and who were then copartners in business, wherein the said Cutter was interested to the amount of two third parts, and the said Cummings was interested to the amount of one third part, for the sum of three thousand four hundred and sixty dollars; and in pursuance of such sale, your oratrix, on or about the 22d of September, A. D. 1838, by her deeds duly executed, conveyed two undivided third parts of the same lands and premises to the said Cutter, and one undivided third part of the same lands and premises to the said Cummings.

And your oratrix further shews, that she expressed a strong desire to

the said Cutter and Cummings to retain possession of, and have the premises, at the price by them agreed to be given therefor as aforesaid, although she was not then able immediately to pay for the same; and the said Cutter and Cummings thereupon, being very friendly to your oratrix, and willing to comply with her wishes in that behalf, and to allow her to have the benefit of the bargain and purchase made by them as aforesaid, did, at the time of the making of the said deeds and conveyances by your oratrix to them as aforesaid, bargain, agree, and promise, with and to your oratrix, that she should retain the possession of and occupy the premises, and receive the income and profits thereof, and that they would convey the same to her, to hold in fee simple, whenever she should pay to them the moneys which they agreed to pay and had paid therefor, and interest thereon at six per cent. until such payment, which your oratrix agreed to pay therefor.

And your oratrix further shews, that in pursuance of the bargain and agreement aforesaid, she was permitted by the said Cutter and Cummings to retain possession of and occupy the premises, and to take and receive the income and profits thereof; and that, confiding in the said bargain, agreement, and promises, and relying thereon, and being encouraged by the said Cutter and Cummings, she was induced to and did expend large sums of money in keeping the said premises in repair, paying the taxes from time to time levied thereon, and making betterments and improvements thereof, with the knowledge and assent of the said Cutter and Cummings, under the agreement aforesaid.

And your oratrix further shews, that on or about the first day of January, A. D. 1831, the said Daniel Cummings retired from the said copartnership, and Richard Perkins became a copartner with the said Cutter in the place of the said Cummings, and to have a like interest therein; and thereupon the said Cummings, by his deed duly executed, conveyed the said one undivided third part of the premises, which had been conveyed to him as aforesaid, to the said Perkins, who, before and at the time of the same conveyance, and before paying any consideration therefor, had full notice of all and singular the premises, and of the bargain and agreement aforesaid between your oratrix and the said Cutter and Cummings, and of the interest of your oratrix therein, and received the conveyance aforesaid under and subject to the same agreements, wherewith on his part he agreed to comply in the stead of the said Cummings.

And your oratrix further shews, that after the conveyance from the said Cummings to the said Perkins as aforesaid, she was permitted as before to retain the possession of the premises, and to receive and take the income and profits thereof, and by said Cutter and Perkins encouraged and induced to make repairs, improvements, and betterments, and pay taxes thereon, at great expense, under and confiding in the agreement aforesaid with which the said Cutter and Perkins agreed to faithfully comply.

And your oratrix further shews, that on or about the eighteenth of January, A. D. 1832, the said Perkins conveyed the same undivided third part of the premises, which had been conveyed to him as afore-

said, to the said Cutter, by the deed of the said Perkins, duly executed, which conveyance the said Cutter received under and subject to the agreement aforesaid, with which the said Cutter thereupon agreed faithfully to comply, and to convey the premises to your oratrix whenever she should pay the said price therefor, and interest thereon as aforesaid.

And your oratrix further shews, that after the conveyance from the said Perkins to the said Cutter, and when the entire legal estate in the premises was in the said Cutter, your oratrix was permitted and encouraged by the said Cutter to retain the possession of the said premises, and take the income thereof, and to expend large sums of money in making repairs, betterments, and improvements thereon, and in paying taxes levied thereon, under the said agreement, and in hope and expectation that the same would be complied with and fulfilled; and on one occasion, when certain persons applied to said Cutter to purchase a small portion, being about one acre of the premises, he referred them to your oratrix to obtain her consent to the sale thereof, which being given, the said Cutter conveyed the same to them, and permitted your oratrix to receive the money paid as a consideration to her use.

And your oratrix further shews, that on or about the first day of February, A. D. 1834, the said Cutter being apprehensive that he might fail in business and become insolvent, and that the legal estate in the premises being in him, the same might be seized by his creditors, and your oratrix thereby be prejudiced, and being willing and desirous to convey the premises to some one who should undertake to hold the same for the benefit of your oratrix under the agreement aforesaid; and Charles Tufts, one of the defendants herein named, being the step-son of your oratrix, and pretending to be friendly to your oratrix, with whom he then lived, and to be willing to receive a conveyance of the premises, and pay, or secure to be paid, to the said Cutter, the moneys which he had paid therefor, and interest thereon, and hold the same premises subject to such agreement as aforesaid with your oratrix, and convey the same to your oratrix whenever she should pay the price aforesaid and interest as aforesaid, the said Cutter thereupon, confiding in the pretences of the said Charles Tufts, and in order that the premises might be held by him for the benefit of your oratrix under such agreement as aforesaid, did convey, by the deed of the said Cutter duly executed, the said premises unto the said Charles Tufts, he, the said Charles Tufts, at the same time agreeing, for the benefit of your oratrix, to hold the same premises under such agreement as aforesaid, and to convey the same to your oratrix, upon her paying to him the price aforesaid, and interest thereon as aforesaid, whenever she might choose to pay the same; and the said Charles Tufts also, at the time of the conveyance aforesaid, paying or securing to be paid to the said Cutter the amount paid by him for the premises, with interest thereon.

And your oratrix further shews, that the said Charles Tufts, before and at the time of the making of the said conveyance by said Cutter to him, and before paying or securing to be paid any part of the moneys paid or secured to be paid on account thereof by him to said Cutter,

had notice of all and singular the premises, and of the agreements, bargains, and promises aforesaid, with and to your oratrix in respect of the premises, and about the time of the same conveyance of said Cutter to him, informed your oratrix thereof, and that he had received the same, to hold the premises for the benefit of your oratrix under the agreement aforesaid, and promised your oratrix that whenever she should pay the price aforesaid, and interest thereon as aforesaid, he would convey the premises to your oratrix.

And your oratrix further shews, that, confiding in the agreements aforesaid and the promises of the said Charles Tufts, she was permitted, encouraged, and induced to retain the possession of the premises and receive the income thereof, and to expend divers large sums of money, after the conveyance thereof by said Cutter to said Charles Tufts, upon the premises, in making repairs thereon, and betterments and improvements upon the same, and in paying the taxes which were levied thereon, and has continued in the possession thereof hitherto, so making repairs, betterments, and improvements of a permanent value, with a view to the receiving of a conveyance thereof under the agreement aforesaid, and dealing therewith with the assent of the said Charles, as the equitable owner thereof; all which the said Charles, who lived with your oratrix until the month of October, 1842, well knew and encouraged your oratrix to do, until about the time aforesaid.

And your oratrix further shews, that one Daniel Goldsmith, wanting to purchase a small portion of the premises, was referred by the said Charles Tufts to your oratrix, to obtain her consent as being the equitable owner thereof; and your oratrix did thereupon bargain and agree with the said Goldsmith to sell him the same, being about three fourth parts of an acre, for the price of seventy-five dollars, and the said Charles Tufts did thereupon, with the consent of your oratrix, convey the same small portion of the premises to the said Goldsmith, and receive from him the said sum of seventy-five dollars, the consideration of the said sale, and gave credit to your oratrix in the books of the said Charles therefor.

And your oratrix further shews, that from about the time of the death of the said Peter Tufts, A. D. 1825, until the month of October, A. D. 1842, the said Charles Tufts was by your oratrix employed about her business, and during that time he had the charge of the keeping of the books and accounts of your oratrix, and her paper writings, and at all times had access thereto, and did often during that time render to your oratrix accounts in writing between himself and your oratrix, wherein he charged your oratrix with the price or amount by him paid or agreed to be paid to said Ammi Cutter, by your oratrix agreed to be paid for the said premises, and interest thereon, and credited her with the said sum of seventy-five dollars, and with other moneys received by him on her behalf, which account your oratrix put among her other paper writings, but which after diligent search she cannot now find, and verily believes, and therefore states, that the said Charles has taken and withholds the same; and your oratrix further shews, that the said

Charles has, during the whole or a considerable part of the time aforesaid, kept books in which his dealings with and on account of your oratrix are entered in writing by him, and wherein the charges and credits contained in the aforesaid accounts are entered from the entries made by the said Charles; in which books, if produced; and which are now in the possession or power of the said Charles, it would appear that the premises are held by him under such agreement as aforesaid, for the benefit of your oratrix, and that the said Charles is bound to convey the same to your oratrix on the terms aforesaid; all which would fully appear, if the said Charles would, as he ought to do, discover and disclose the truth respecting the same.

And your oratrix further shews, that the said Charles Tufts has repeatedly, during the time aforesaid, assured your oratrix that he would faithfully comply with his agreement and promises to your oratrix aforesaid, and would convey the premises to your oratrix, excepting the small portions conveyed to others as aforesaid with the consent of your oratrix, whenever your oratrix should pay the amount and interest agreed as aforesaid to be paid therefor, and has repeated the same to divers persons at various times, and admitted to them that he held the premises for the benefit of your oratrix upon the terms aforesaid, and that your oratrix, upon the faith thereof, had made such repairs, betterments, improvements, and payments as aforesaid, and especially has he so repeated, declared, and admitted to Elbridge Tufts, the son of your oratrix, and to Adaline Dowell, Anne Hughes, and Deborah Tufts, daughters of your oratrix, and to divers other persons with whom he conversed relative to the premises.

And your oratrix further shews, that she has expended in making of repairs, betterments, and improvements of a permanent nature on the premises, and in payment of taxes levied thereon, in the whole, a sum nearly equal to the amount which she originally agreed to give for the premises; and that in consequence thereof, and of the great rise in the value of the said lands, the premises are now worth much more than that amount, added to what she has thus expended thereon; and your oratrix believes, and therefore states, that the same are worth forty thousand dollars.

And your oratrix further shews, that she has been ready and willing, and offered, to pay to the said Charles Tufts all that she was by the said agreement bound to pay for the said premises, and has repeatedly requested the said Charles to convey the same to your oratrix, excepting the small portions conveyed as aforesaid, upon your oratrix complying with the agreement on her part; and your oratrix well hoped that the said Charles, in compliance with his agreement and promises, would have so done, as in justice and equity he was bound to do. But now, so it is, may it please your honors, that since the said lands have risen in value as aforesaid, the said Charles Tufts has conceived the idea, and entertained the intention, of availing himself of the legal title which he had thereto derived from the said Cutter, and appropriating the premises to his own use and benefit, to the utter exclusion of your

oratrix from all interest and benefit therein and therefrom, and utterly refuses to comply with the reasonable requests of your oratrix aforesaid; and combining and confederating with the said Emerson Wheeler, and with divers other persons to your oratrix unknown, but whose names, when discovered, she prays may be inserted herein, with apt words to charge them as parties hereto; and contriving how to defraud and injure your oratrix, and to deprive her of all benefits from the premises, did, on or about the ninth day of September now last past, by his deed, convey to said Wheeler a certain portion of the said premises for the alleged consideration in the said deed of seven thousand five hundred dollars, and the said Wheeler, at or about the same time, reconveyed the same portion to the said Charles Tufts, by deed or mortgage, purporting to be for securing the payment to the said Charles Tufts of the sum of six thousand dollars and interest, but what was the real consideration of the said conveyances, if any there was, your oratrix doth not know; and the said Charles and Emerson, pretending that your oratrix has not any right, title, interest, or claim whatever in or to the premises, the contrary whereof your oratrix alleges to be true, and endeavored to exclude your oratrix from all right, benefit, and interest in and from the premises.

And your oratrix further shews, that at and before the time of the said conveyance by the said Charles to the said Emerson, and before the payment by the said Emerson of any part of the consideration, if there were any therefor, the said Emerson had notice of all and singular the premises, and of the agreements aforesaid with, and promises to, your oratrix aforesaid relative to the premises, and of the equitable interest which your oratrix has therein and thereto.

All which actings, doings, and pretences are contrary to equity, and tend to the manifest wrong and injury of your oratrix; in consideration whereof, and forasmuch as your oratrix has no remedy, without the aid of this honorable court in equity:

To the end, therefore, that the said defendants may, if they can, shew why your oratrix should not have the relief hereby prayed, and may, upon their several and respective corporal oaths, and according to the best and utmost of their several and respective knowledge, information, and belief, full, true, direct, and perfect answer *made* to such of the several interrogatories hereinafter numbered and set forth, as by the note hereunder written they are respectively required to answer. That is to say:

1st. Whether the said Peter Tufts did not die seized, possessed, and entitled unto the tracts, pieces, and parcels of land hereinbefore in that behalf mentioned and described, or how otherwise?

2d. Whether the said Peter Tufts did not make his last will and testament, and therein and thereby name and appoint your oratrix the executrix thereof, as hereinbefore in that behalf mentioned, or how otherwise?

3d. Whether the said Peter Tufts in and by his said last will did not

authorize your oratrix to make sale of his real estate for such purposes as aforesaid, or how otherwise?

4th. Whether your oratrix did not accept the trust of executrix as aforesaid, and whether the said will was not proved and established before the said probate court, or how otherwise?

5th. Whether it did not appear, after the death of the said Peter Tufts, that he was insolvent, and that his real and personal estate was insufficient to pay all his just debts, and whether, by reason thereof, it was not necessary to make sale of the lands and premises hereinbefore in that behalf mentioned, or how otherwise?

6th. Whether your oratrix did not sell the premises to the said Ammi Cutter and Cummings at public sale for the sum aforesaid, or how otherwise? And whether they were not copartners, interested as aforesaid, and did not receive conveyances as aforesaid, or how otherwise?

7th. Whether such bargain and agreement was not made between your oratrix and the said Cutter and Cummings relative to the conveyance of the premises to your oratrix as aforesaid, or how otherwise? And whether the said Cutter and Cummings did not, under such bargain and agreement, permit your oratrix to retain the possession of the premises, and to receive the income and profits thereof? And whether the said Cutter and Cummings did not encourage your oratrix in pursuance of the said agreement to expend divers large sums of money in repairs, betterments, and improvements, and in paying in taxes on the premises as aforesaid, and whether your oratrix did not expend therein large sums of money, confiding in the said agreement between herself and the said Cutter and Cummings?

8th. Whether the said Cummings did not retire from the said copartnership at or about the time aforesaid, and the said Perkins become a partner with said Cutter in his place? And whether said Cummings thereupon did not convey such part of the premises as aforesaid, or how otherwise? Whether before and at the time of the said conveyance to said Perkins, and before paying any consideration therefor, he had not such notice of the agreement or understanding between your oratrix and said Cutter and Cummings, as in that behalf is above alleged, or how otherwise? And whether he did receive the conveyance of the said Cummings to him under and subject to such agreement, and agree to comply therewith as aforesaid, or how otherwise?

9th. Whether after the conveyance of the said Cummings to the said Perkins your oratrix was not permitted as before to retain possession of the premises, and to receive and take the income and profits thereof, and encouraged and induced to make repairs, and betterments, and improvements upon the premises, and pay taxes levied thereon, as is above in that behalf alleged, or how otherwise?

10th. Whether on or about the time hereinbefore in that behalf mentioned the said Perkins did not convey the portion of the premises which had theretofore been conveyed to him unto the said Cutter as aforesaid, or how otherwise? Whether the said Cutter did not receive the same conveyance under and subject to such agreement, as is hereinbefore in

that behalf mentioned, and agree to comply therewith, and to convey the premises to your oratrix upon the terms aforesaid, or how otherwise?

11th. Whether after the said conveyance of the said Perkins to the said Cutter, and when the entire legal estate was in the said Cutter, your oratrix was not permitted and encouraged by him to retain the possession and take the income thereof, and to expend large sums of money in making repairs, betterments, and improvements, and paying taxes upon the premises, under the said agreement, and in the hope and expectation that the same would be complied with and fulfilled as aforesaid, or how otherwise?

12th. Whether certain persons did not apply to the said Cutter to purchase a small portion of the premises, and whether they were not by him referred to your oratrix to obtain her consent to the sale thereof as aforesaid, or how otherwise? And whether the same consent was not given by your oratrix; and whether the said Cutter did not thereupon convey the same small portion of the premises to the said persons, and permit your oratrix to receive the consideration paid therefor to her use, or how otherwise?

13th. Whether, on or about the time in that behalf herein mentioned, the said Ammi Cutter did not, under the circumstances and for the reasons and for the purposes herein before in that behalf mentioned, convey the premises to the said Charles Tufts, or how otherwise? And whether the said Charles Tufts did not receive the said conveyance under the agreement or understanding and for the purposes herein before in that behalf alleged, or how otherwise? And whether the said Charles Tufts did not agree as aforesaid to convey the premises to your oratrix whenever she should pay such sum as aforesaid in that behalf mentioned, or how otherwise? And whether the said Charles Tufts did not as aforesaid agree to hold the premises for the benefit of your oratrix, or how otherwise?

4th. Whether, at or before the making of the conveyance by said Ammi Cutter to said Charles, and before his paying any consideration therefor, or giving any security therefor, the said Charles had not such notice of the agreements, bargains, and promises in that behalf alleged, or how otherwise?

15th. Whether the said Charles Tufts did not, about the time of the said Cutter to him, inform your oratrix thereof, and that he had received the said conveyance for the purposes herein before in that behalf alleged, or how otherwise? And whether he did not agree with and promise to your oratrix that he would hold the premises for her benefit as aforesaid, and convey the same to her on the terms herein before alleged, or how otherwise?

16th. Whether your oratrix was not induced, permitted, and encouraged to retain possession of the premises, and to take the income thereof and make repairs, betterments, and improvements thereon, and pay the taxes thereon, and deal with the same as the equitable owner thereof, confiding in the agreement of the said Charles Tufts in the

manner and for the time herein before in that behalf alleged, or how otherwise?

17th. Whether the said Goldsmith did not apply for the purchase of a small portion of the premises, and whether the said Charles did not refer him to your oratrix as the equitable owner of the premises, and whether, on your oratrix consenting, the said Charles did not convey the said small portion of the premises to the said Goldsmith, and receive the said sum before mentioned of him as a consideration, and give your oratrix credit therefor in his books, or how otherwise?

18th. Whether the said Charles did not live with your oratrix, and was not employed by her about her business, and in keeping her accounts, during the time and in the manner herein before in that behalf mentioned, or how otherwise? And whether he did not render accounts between your oratrix and himself in writing of the purport and to the effect herein before in that behalf mentioned, or how otherwise? And whether the same accounts were not put among the paper writings of your oratrix, and whether he had not access thereto; and where the same accounts now are; and whether the same are not in his possession, custody, or power, or when and where he last saw the same, and in whose hands, custody, or power, or how otherwise?

19th. Whether the said Charles Tufts has not kept books wherein he has made such entries in writing to the effect aforesaid, or how otherwise? And whether the said books do not contain some and what entries relative to the premises, and whether the same are not now in his custody, possession, or power, or how otherwise?

20th. Whether the said Charles Tufts has not repeatedly, during the time in that behalf alleged, assured your oratrix that he would faithfully comply with the agreement and promises to your oratrix aforesaid, and convey the said premises to your oratrix, excepting the small portions conveyed as aforesaid with the assent of your oratrix, whenever your oratrix should pay the amount and interest in that behalf before mentioned, or how otherwise? And whether he has not repeated the same, and made the declarations and admissions to the several persons herein before in that behalf mentioned or alleged, or how otherwise?

21st. Whether your oratrix has not expended, in paying taxes, making repairs, betterments, and improvements on the premises as aforesaid, an amount nearly equal to the sum which she originally agreed to give for the premises, or how otherwise? And whether, in consequence thereof, and of the rise in value of the said lands, the same are not worth the sum herein before in that behalf alleged, or how otherwise?

22d. Whether your oratrix has not requested the said Charles Tufts to convey the premises to your oratrix, on her paying to him the amount agreed to be paid therefor as aforesaid, or how otherwise? And whether the said Charles Tufts has not refused to convey the same to your oratrix as aforesaid, or how otherwise?

23d. Whether the said Charles Tufts has not conveyed a portion,

and what portion, of the premises to said Emerson, as herein before in that behalf alleged, or how otherwise? And what, if any thing, was the consideration paid or secured to be paid by the said Emerson therefor? And whether the said Charles and said Emerson do not deny the right and interest of your oratrix?

24th. Whether at the time of and before the making of the said conveyance from the said Charles Tufts to the said Emerson, and the paying of any consideration therefor, had not notice as herein before in that behalf alleged, or how otherwise?

And that the defendants may answer the premises, and that the said Charles Tufts may produce the accounts rendered between him and your oratrix as aforesaid, and leave the same with the clerk of this honorable court, for the usual purposes, and may also produce his books aforesaid, wherein he has made any such entries as aforesaid, and leave the same also with the said clerk of this honorable court, for the usual purposes, and that the said deed of conveyance from the said Charles to the said Emerson may be decreed to be set aside and held for nought as against your oratrix, and that the said Charles and the said Emerson may be restrained by the injunction of this honorable court, in the mean time, from conveying any part of the premises herein before mentioned to any person other than your oratrix, and from transferring the said mortgages given to the said Charles, or any note or security given to the said Charles, to any person other than your oratrix, and that an account may be taken of what is due to the said Charles from your oratrix in respect of the premises, and that the said Charles Tufts may be decreed by this honorable court, upon payment thereof, to convey the premises, excepting the small portions aforesaid, conveyed heretofore by consent of your oratrix, to your oratrix; and that your oratrix may have such other and further relief as to your honors shall seem meet, and as the circumstances of the case shall require.

May it please your honors to grant unto your oratrix, not only a writ of injunction, in due form of law, issuing out of and under the seal of this honorable court, to restrain the said Charles and Emerson as aforesaid, but also a writ of subpœna, to be directed to the said Charles Tufts and Emerson Wheeler, and their confederates, when discovered, commanding them, and every of them, at a certain day and under a certain pain, to be therein limited, personally to be and appear before your honors, in this honorable court, and then and there full, true, direct, and perfect answers make to all and singular the premises, and further to stand to, perform, and abide such further order, direction, and decree therein, as to your honors shall seem meet; and your oratrix will ever pray, &c.

ANNA TUFTS.

The defendants are each required to answer each and every interrogatory.

RAND, WARREN & FISKE,
Solicitors and of counsel.

IN THE CIRCUIT COURT OF THE UNITED STATES,
District of Massachusetts, ss:

In Chancery.

ANNA TUFTS, complainant,
vs.
CHARLES TUFTS and EMERSON WHEELER, defendants.

Anna Tufts, the complainant in the above entitled cause, makes oath and says, that she has filed her bill in equity in the above cause, and that the allegations therein contained, so far as the same relate to her own acts and doings, or to matters alleged to have been done or transacted with her or in her presence, are true; and that, so far as they relate to the acts and doings of others, or matters not done or transacted in her presence, she believes the same to be true.

ANNA TUFTS.

December 16th, 1844.

Sworn to before me, FRANCIS BASSETT, *Clerk*.

CIRCUIT COURT OF UNITED STATES,
For the district of Massachusetts.

ANNA TUFTS, in equity,
vs.
CHARLES TUFTS et al.

In the above case it is agreed that the injunction may be ordered, pursuant to the prayer of the bill, to stand till the coming in of the answer, unless previously dissolved by order of the court, without prejudice to the defendants, who reserve liberty to move for a dissolution of the injunction at any time previous thereto; and, on any motion for an injunction subsequently made, they are to be considered as standing as favorably before the court as if this injunction had not been granted.

A. H. FISKE, *for plaintiff.*
S. E. SEWALL, *for defendants.*

The answer of Charles Tufts.

UNITED STATES OF AMERICA,
Circuit court, for the district of Massachusetts:

ANNA TUFTS
vs.
CHARLES TUFTS et al.

The answer of Charles Tufts, one of the defendants to the bill of complaint of said Anna Tufts, against this defendant and Emerson Wheeler.

This defendant, now and at all times saving and reserving to himself all advantage of exception to the errors and imperfections contained in the said bill of complaint, for answer thereto, or to so much thereof as he is advised it is material for him to make answer unto, says:

He admits that said Peter Tufts died seized, possessed, and entitled to the tracts, pieces, and parcels of land described in said bill; that said Peter Tufts made his last will and testament, and thereby named and appointed the said complainant executrix thereof, as set forth in said bill, and thereby authorized her to make sale of his real estate for the purposes set forth in said bill.

And this defendant admits that said complainant accepted the office of executrix of said will, and that said will was proved and established in the probate court, as set forth in said bill.

And this defendant admits that, after the death of said Peter Tufts, it appeared that his estate was insolvent, and his real and personal estate insufficient to pay all his just debts, and that it thereby became necessary to make sale of the said lands and tenements described in said bill.

And this defendant admits that the said complainant sold the said premises, described in said bill, to said Ammi Cutter and Daniel Cummings, at public sale, for the sum or price mentioned in said bill; and that said Cutter and Cummings were copartners, and received conveyances of the said premises as set forth in the said bill.

And this defendant does not admit, and does not believe, but denies, that the said Cutter and Cummings, at the time of her making the said deeds and conveyances to them, mentioned in said bill, or at any other time, ever bargained, agreed, or promised with and to her that she should retain the possession of and occupy the said premises, and receive the income and profits thereof, and that they would convey the same to her to hold in fee simple whenever she should pay to them, said Cutter and Cummings, the moneys which they agreed to pay, and had paid, therefor, and interest thereon at six per cent. until such payment; and this defendant does not admit, and does not believe, but denies, that said complainant ever agreed to pay said Cutter and Cummings such a price, or any other price, for the premises.

But this defendant says that he was informed by said complainant, at or about the time when said Cutter and Cummings purchased the said premises, and believes, that the said complainant did verbally request them, said Cutter and Cummings, to give her the privilege of buying the said premises of them, and that they did tell her verbally, if she paid them interest on the amount which they had paid for said premises regularly every quarter, paid the taxes on the premises regularly, and also paid them the principle they had paid at any time within ten years from the time of their purchase, they would convey the said premises to her, and if she failed to pay the interest regularly, she was to forfeit all claim to purchase the premises; but that this was understood to be a favor on their part, and that she never agreed or promised to purchase the said premises of said Cutter and Cummings at any time, or on any terms, and she represented to this defendant that it was optional with her whether to purchase the said premises or not; she thought that she could keep the interest paid, and raise money to pay the principal in the course of that time; and the defendant avers that the said term of ten years has long since elapsed.

This defendant believes that the said complainant never claimed any

legal right to purchase the same of said Cutter and Cummings, of said Cutter and Perkins, or of said Cutter, as long as said Cutter had any interest in the said premises.

And this defendant further answering says, that he admits that said Cutter and Cummings did permit the said complainant to retain possession of the said premises, and to receive the income and profits thereof, but denies that it was under any agreement, such as she has set forth in her bill; and this defendant does not know, and does not believe, but denies, that said Cutter and Cummings encouraged said complainant to expend large sums, or any sums, of money in repairs, betterments, and improvements of the premises, and in paying taxes thereon, and does not believe, but denies, that she ever spent any sums of money in repairs, betterments, improvements, taxes, or otherwise on said premises, as long as said Cutter and Cummings owned the same, or as long as either of them continued interested therein; except that, while said Cutter and Cummings owned the said premises, the roof of the kitchen on said premises was raised, which this defendant believes cost about seventy-five dollars, which he believes was paid by her; the house on the premises was painted during that time, and the price he believes was paid by said Cutter and Cummings, and not by her. This defendant says, that he has been informed, and believes, that said Cummings retired from said copartnership as set forth in said bill; and that in his place said Perkins became partner with said Cutter; and that said Cummings conveyed to said Perkins his, said Cummings's, interest in the said premises; and this defendant does not believe, but denies, that said Perkins ever at any time had any notice of any such bargain, agreement, or understanding of said Cutter and Cummings with said complainant, as is set forth in said bill, because this defendant does not believe there ever was any such bargain, agreement, or understanding with said Cutter and Cummings. Whether the said Perkins had, at any time, any notice of the willingness of said Cutter and Cummings to sell the said premises to said complainant at any time within ten years, on the terms and conditions hereinbefore mentioned, this defendant does not know, and does not admit, and if the same be material, prays that the said complainant may be held to prove the same.

This defendant admits, that after the conveyance made by said Cummings to said Perkins, the said complainant was permitted to retain possession of the premises, and to receive the income and profits thereof; but he does not know, and does not believe, but denies, that she was encouraged and induced to make repairs and betterments upon the premises, and pay taxes levied thereon, while said Perkins was an owner thereof, or that she did, during that time, make any betterments upon the premises, or pay any taxes levied thereon; and this defendant believes that if she made any repairs they were very small in amount.

This defendant admits that said Perkins conveyed his interest in the said premises to said Cutter, as set forth in the bill; but this defendant does not admit, and does not believe, but denies, that said Cutter received the said conveyance under and subject to any such bargain,

agreement, or understanding with said complainant to convey the said premises to her, as is set forth in her said bill; or, to any other bargain, agreement, or understanding in her favor.

This defendant admits that the said complainant, while said Cutter was sole owner of the said premises, was permitted to remain in possession of the same, and to receive the income thereof, but this defendant does not believe, but denies, that the said Cutter encouraged her to do so, or to expend large sums of money, or any sums, in making repairs, betterments, and improvements, and paying taxes upon the premises; and this defendant does not believe, but denies, that during the said time she expended any sums of money for such purposes, or any of them; except, possibly, some very small sums for repairs. This defendant believes that said Cutter hoped that the said complainant would buy the said premises, but does not believe, and denies, that she ever made any contract or agreement, verbal or written, with said Cutter, to purchase the same.

This defendant does not know, and does not admit, that any persons applied to said Cutter to purchase a small portion of the premises, and were by him referred to the said complainant to obtain her consent to the sale thereof; and does not know, and does not admit, that any consent was given by said complainant, and if the facts of such application, reference, and consent be material, prays that the said complainant may be held to prove the same.

This defendant has been informed, and believes, that the said Cutter sold a small part of the premises to Kinsley and Low for one hundred dollars, but whether with the consent of said complainant he does not know, and if the fact of such consent be material, prays that she may be held to prove the same; and this defendant does not believe, but denies, that said complainant ever received the consideration for the part of the premises so sold to said Kinsley and Low, or for any part of the premises sold by said Cutter, but believes that said Cutter solely received the consideration for every portion of the said premises sold by him.

This defendant admits that said Ammi Cutter, on or about the said first day of February, A. D. 1834, conveyed the said premises to this defendant, but this defendant does not believe, but denies, it was because the said Cutter was apprehensive that he might become insolvent, or that the premises might be seized by his, the said Ammi's, creditors, and that the said complainant might thereby be prejudiced, as alleged in her said bill of complaint; but, on the contrary, this defendant agreed with said Cutter, as early as July, 1831, to purchase the said premises of said Cutter, or said Cutter or Perkins, for the sum or price of four thousand and fourteen dollars, which amount said Cutter, who was then in good credit, represented to be the amount they had paid for the same, with interest and expenses; and this defendant, on or about the thirteenth of January, A. D. 1832, paid said Cutter one thousand dollars on account of the said purchase of the said premises. This defendant further says, that before the agreement to sell to him as afore-

said, the said Cutter and Perkins had avertised the said premises for sale in one or more newspapers for several weeks; and they were desirous, as said Cutter informed this defendant, to sell the same, because the said complainant had not paid any interest on the price paid by them for the said premises for two years.

This defendant further answering says, that neither said Cutter nor said complainant, nor any other person, ever requested this defendant, and this defendant never did agree, to hold the said premises subject to any such trust or agreement as is set forth in the said bill; and this defendant never did agree, nor was he ever requested to agree by said Cutter, or said complainant, or any other person, to convey the said premises to said complainant, upon her paying to him the price which said Cutter and Cummings had paid for the same, with interest thereon, whenever the said complainant might choose to pay the same, alleged in her said bill, or to hold the same for the benefit of said complainant, or to convey the same to her in any other manner than is hereinafter stated; and this defendant, at the time the said Cutter conveyed the said premises to him, this defendant had no notice of any agreement, by which said Cutter was under any legal or honorary obligation to convey the said premises to said complainant, other than is hereinbefore set forth, and does not believe any other ever existed.

But this defendant says, that when he agreed to purchase the said premises of said Cutter and Perkins, he, said Cutter, verbally requested that the said complainant might have the privilege of purchasing the same, at any time within five years from the time of the said defendant's agreeing to purchase the said premises as aforesaid, on her paying to him the price he paid said Cutter, provided she paid the interest upon the same regularly every quarter, and also the taxes on the said premises, and kept the buildings on the premises in good repair; the privilege to be forfeited if the interest was not regularly paid; to this request this defendant verbally assented as a favor to the said complainant; but the said complainant never agreed, in writing or otherwise, to purchase the said premises of this defendant, for any price, or in any manner, or paid him any consideration for the privilege he agreed to allow her. The said complainant, at this time represented that she had a lawsuit pending in New York, from which she hoped to get money to pay for the said premises, but this defendant has understood that she never got any money by the said lawsuit; and this defendant avers that said term of five years has long since elapsed.

When this defendant purchased the said premises of the said Cutter, the said Cutter conveyed them to him by two warranty deeds, and this defendant mortgaged back to said Cutter that part of the premises which lies on the east side of the street to secure the sum of fifteen hundred dollars, and that part of the premises lying west of the street to secure the sum of five hundred dollars; the latter sum this defendant has paid; the other still remains unpaid, and this defendant has paid interest on the same semi-annually. This defendant says that the sum which he paid said Cutter for the said premises was a fair price, and the full value

of the same when they were sold, and as much as said Cutter could get offered for the same.

The said defendant, further answering, says, that he did not, at or about the time when said Cutter conveyed said premises to him, or at any other time, inform the said complainant that he had notice of the supposed agreement alleged in the said bill to have been made with her by said Cutter or said Cutter and Cummings, or that he would hold the said premises subject to any such agreement as is set forth in her said bill; and he never did promise the said complainant that he would hold the said premises for her benefit, or that, whenever she should pay the price alleged in said bill and interest thereon, he would convey the premises to her, as alleged in her said bill.

And this defendant says, that said complainant was present when said Cutter requested him to allow her the privilege of purchasing the premises for five years as aforesaid, and when this defendant assented to the request as aforesaid.

But this defendant at first objected to granting this privilege to her, and when said Cutter agreed to sell said premises to this defendant as aforesaid, this defendant believed, and still believes, that the said Anna had forfeited all equitable and honorary claim to purchase the said premises by not paying the interest, and this defendant did not suppose said Cutter was under any equitable or honorary, still less legal, obligation to sell the premises to her. This defendant admits that he has permitted the said complainant to remain in possession of the whole of the said premises till he made the said sale to said Wheeler, and has allowed her to enjoy the income thereof; this he did out of kindness and regard to her, and on account of her poverty, she being his father's widow, and having then six young children; but this defendant says that the said complainant has made very few and small repairs on the premises since she has so occupied them, not amounting, he should think, in all to a hundred dollars, and the buildings and fences are now in much worse repair than when she took them. This defendant does not recollect, and does not believe, but denies, that the said complainant has paid for any betterments or improvements on the said premises since he purchased the same. In 1840 a shed on the premises was raised by her orders, but the expense was charged to this defendant, and paid by him. In 1842 this defendant had an addition made to the barn on the said premises, and some new fencing made, which cost him between two and three hundred dollars. This he never charged to said complainant, but to the estate, not supposing she had at that time any claim, legal, equitable, or honorary, to purchase the premises. This defendant says that the said complainant has never paid the taxes on said estate while he has owned it, but he has always paid them; that he never regarded her as the equitable owner of the estate, and, since the expiration of the five years before mentioned, never considered her as having the smallest honorary claim on him to allow her to purchase the said premises.

This defendant never conveyed any part of said premises to said

Goldsmith, nor was said Goldsmith ever referred by him to the said complainant, as alleged in the bill; but, on the contrary, some person, on behalf of the said Goldsmith, applied to said complainant some time in 1833, and was by her referred to this defendant, who agreed to sell him a small strip of land, to put a ropewalk on, for seventy dollars, and said Cutter conveyed the same to said Goldsmith, and received the money for it. This defendant did not ask her consent, and does not believe said Cutter asked it.

This defendant admits that he, being unmarried, resided with said complainant, as alleged in her bill, and assisted her in her business, and occasionally made out bills for her, and sometimes made entries for her in her account books; the entries, however, in the books were very few, not, as he thinks, amounting to more than a page in a year, if so much; she sometimes made entries in the books herself. She kept bills that she had paid, and other papers, in the same desk in which this defendant kept his own account books; and this defendant rendered accounts to the said complainant almost every year; he balanced his accounts in his books with her every year, and she had access to his books, and sometimes examined them; but in said accounts he never charged her with any sum as the price of said premises, and never credited her with said sum of seventy dollars; but he did for a number of years charge her with interest quarterly on the amount paid by him to said Cutter as the price of said premises, and always credited her with moneys received by him on her behalf. The said defendant annexes copies, marked A, of the accounts rendered by him to her, as nearly as he can make them from his books, and substantially the same as the accounts rendered her. This defendant does not know what became of the said accounts after he rendered them to her; he does not recollect ever to have seen them after he handed them to her, and thinks he last saw each account in her custody at the time he handed it to her, and that they are not now in his possession, custody, or power, and have not been so since he rendered them to her He never had access to them, that he knows of, and does not know where she was in the habit of keeping them; and he denies that he ever took, or now withholds, the said accounts from her.

In regard to said accounts, this defendant further says, that he charged her with interest on the sum paid said Cutter for a number of years, thinking that if she should purchase the premises it would be a proper charge, and if she did not purchase them it would be a fair rent in addition to the taxes; and for several years past, as appears by said accounts, he has charged her with the same amount as rent.

This defendant has always treated the said complainant with the greatest kindness, and has frequently paid demands against her on which she has been sued; and in January, 1838, there being a large balance due to him from her, amounting to $1,789 23, he, in consideration of her poverty, and out of regard to her, took her note for $500, and voluntarily forgave her the rest of the debt, and commenced a new account. He credited her in his books the sum of $1,289.23, as cash

paid, for the purpose of balancing the account, though she in fact paid not a cent. This defendant at the same time gave up to the said complainant two notes of hand, which he held against her for money lent, one for $115, the other for $49.56.

This defendant would not have given up these large claims against said complainant, if he had supposed she then had any right to purchase the said premises.

At the time this defendant gave up these claims, she said she still wanted the privilege of purchasing the estate, if she got the money, but did not claim it as a right. This defendant then told her it was entirely at his option whether to sell her the said premises or not, and would not make her any promise to sell the same to her.

Since that time this defendant, at the request of said complainant, has several times offered in writing to sell her a part of the said premises, at prices less than the value, if she would get the money at times specified. These offers are probably now in her possession. She wanted them in order to show her friends, to see if they would assist her to accept the offers. At the times when these offers were made, she never claimed any such right of purchase as is set up in the bill.

And the said Charles Tufts denies that he repeatedly, or ever, assured the said complainant that he would comply with the agreement and promises alleged in her said bill, which agreement and promises he denies that he ever made, and he expressly denies that he ever promised to convey the said premises, or any part thereof, to the said complainant, whenever she should pay the amount alleged by her, and interest, as alleged by her in her said bill; and never made any agreements, or promises, or offers to the said complainant, in regard to the conveyance of said premises, differing from those before stated in this answer. And this defendant denies that he ever repeated, declared, or admitted to the said Elbridge Tufts, Adeline Dowell, Anne Hughes, or Deborah Tufts, or to any person, that he held the said premises for the benefit of the said complainant, upon the terms stated in her said bill, or that the said complainant, upon the faith thereof, had made repairs, betterments, improvements, or payments, as alleged in her said bill.

This defendant denies that the said complainant has ever paid the taxes on said premises, since he purchased the same, but says that he always paid them himself; that she has paid for no betterments or improvements, to his recollection, since he purchased the said premises. She may have paid some small sums for repairs, but the amount is very small indeed, not amounting, he believes, in all, to one hundred dollars, from the time said Cutter and Cummings purchased the said premises to the present time. The amount which this defendant has paid for taxes on the said premises, and for repairs thereon, she has never repaid him, as is apparent from the accounts herewith presented; these accounts were rendered to her regularly at the beginning of almost every year, and she never made any objection to them. The interest she was charged, and the taxes and repairs, were no more than a fair rent for the premises. Yet, as the accounts show, she has paid

little or nothing towards the rent, but has been occupying and enjoying the said premises, in fact, nearly or quite rent free for the last twelve years. At the end of the year 1837 she had become indebted to this defendant $1,789.23. Of this sum he voluntarily, on account of her poverty, credited her with $1,289.23 to balance the account, though she paid nothing, as before mentioned.

And the balance now due from her is - - -	$3,007 32
Add to this the above sum, given up - - -	1,289 23
Note for money lent, given up to her at same time -	115 00
Another note for money lent, given up to her at same time	49 56
Interest on these three last sums to Jan. 1, 1845 - -	711 73
	$5,172 84

So far, therefore, from the said Anna having been injured by being allowed to occupy the said premises during so many years, she has in fact been greatly benefitted; as, on account of her poverty, this defendant considers his claim of $3,007.32, which he has not in form given up to her, of little or no value.

This defendant further answering says, that some time in the year 1843 he sold and conveyed to William Arkerson, junior, a small piece of land, part of the said premises mentioned in the complainant's said bill, for the price of about thirty-six dollars, paid by said Arkerson. This defendant did not consult the said complainant in regard to said sale, and never mentioned it to her until some weeks after it had been completed. This defendant did not credit her with the price, $36, and she never made any objection to the sale. This defendant admits that the said premises are now of greater value than they were in 1832, but this is solely in consequence of the rise in the value of land, and they are not nearly of the value stated in the bill. He considers the part sold to said Wheeler as worth seven thousand five hundred dollars, for which sum he sold it, and no more. He considers it a good sale. He considers the remainder of the premises as worth about the same sum, $7,500.

The assessors valued the whole of said premises at about $9,000 last May. This defendant denies that the said complainant ever requested him to convey the premises to her, except as follows, viz: Within the last year or two she has claimed a right to buy the said premises, but this defendant has always denied it; and she has, on some occasions, during that time, asked him if he would not convey the said premises to her on her paying the cost and interest. This he has always refused to do, and says that, ever since the settlement made with her in the beginning of the year 1838, he has denied, and still denies, that she has any legal, equitable, moral, or honorary claim upon him to sell and convey the said premises to her upon any terms. This defendant admits that, on the ninth day of September, A. D. 1844, he conveyed to said Emerson Wheeler a part of said premises, bounded in the deed as follows, to wit: Southeasterly by road leading from Cambridgeport, so

called, to the Powder magazine, and named Magazine street; northeasterly by land and ropewalk of William and James Arkerson ; northwesterly, westerly, and southerly, by a proprietors' way or salt marsh, belonging to the heirs of Ephraim Cutter and others, to the first mentioned road, or however otherwise bounded, containing twelve acres, be the same more or less. The consideration named in said deed was seven thousand five hundred dollars, of which said Wheeler paid this defendant fifteen hundred dollars in cash, and for the remaining six thousand dollars gave this defendant his, the said Wheeler's, note, payable on the first day of April next, and secured by mortgage of the premises sold said Wheeler. And this defendant says that the sale of the said premises to said Wheeler was a true and bona fide sale for the consideration expressed in the deed to said Wheeler. And this defendant denies that the said complainant has any right or claim in or to the premises sold said Wheeler.

And he further says, that on the thirty-first day of August, A. D. 1844, he entered into a written agreement with said Wheeler, by which he agreed to sell, and said Wheeler to buy, that part of the said premises afterwards conveyed to him, on the same terms on which the sale was afterwards completed.

This defendant further answering says, that until after the time of the said conveyance made by him to said Emerson, and of the payment therefor so made, he fully believes that said Emerson had no notice, knowledge, or suspicion, that the said complainant set up any legal or equitable right, title, interest, or claim, in or to the said premises sold said Emerson; or any notice, knowledge, or suspicion of any of the agreements or promises alleged by her in her said bill to have been made in her favor by said Cutter, Cummings, Perkins, or this defendant, in regard to said premises.

And this defendant says, that by the Revised Statutes of the Commonwealth of Massachusetts, in the twenty-ninth and thirtieth sections of the 59th chapter thereof, it is enacted, that "All estates or interests in land created or conveyed without any instrument in writing, signed by the grantor or his attorney, shall have the force and effect of estates at will only; and no estate or interest in lands shall be assigned, granted, or surrendered, unless by a writing signed as aforesaid, or by the operation of law;" and that "No trust concerning lands, excepting such as may arise or result by implication of law, shall be created or declared unless by an instrument in writing, signed by the party creating or declaring the same, or by his attorney;" and by the first section of the seventy-fourth chapter of the said Revised Statutes it is also enacted, "that no action shall be brought upon any contract for the sale of lands, tenements, or hereditaments, or of any interest in or concerning them, unless the contract upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith, or by some person thereunto by him lawfully authorized;" and that the trust supposed by the said complainant in her said bill to be created for her benefit in regard to said

premises, was not created or declared by any instrument in writing, signed by said Cummings, Cutter, Perkins, or this defendant, or by any attorney of either of them; and that neither the contracts supposed by the said complainant in her said bill to have been made by said Cutter, Cummings, Perkins, and this defendant, respectively, for the sale of said premises to her, nor any of them, nor any memorandum or note thereof, were in writing, signed by either said Cutter, Cummings, Perkins, or this defendant, or by any person thereunto by either of them lawfully authorized; and therefore this defendant (not admitting, but wholly denying the existence of the said supposed trusts and contracts) insists that the said supposed trusts and contracts are wholly void as against him, and that he cannot be affected thereby. And this defendant claims the same benefit of the above recited provisions of the Revised Statutes, as if he had pleaded the same in this cause. And this defendant, for the reasons and under the circumstances aforesaid, is advised and insists, that the said complainant is not entitled to any relief against this defendant touching the matters complained of in her said bill.

And this defendant further answering says, that, under the circumstances of the case, even if the said complainant ever had any claim upon this defendant to be allowed to purchase the said premises of him, as alleged in her said bill, she could only retain such a claim for a reasonable time, and that more than sixteen years having elapsed since the bargain she pretends to have made with said Cutter and Cummings for purchasing the said premises, and more than sixteen years having elapsed since the time this defendant contracted to purchase the said premises, and she having never paid this defendant any part of the amount which she represents she had agreed to pay for the said premises, either principal or interest, or done any thing to complete the purchase claimed to have been made by her, such reasonable time must long since have elapsed; and she can now have no legal or equitable claim to purchase the same.

And this defendant denies all unlawful combination and confederacy wherewith he is charged by the said bill; without this, that there is any other matter or thing in the said complainant's said bill contained material for this defendant to answer, and not herein sufficiently answered, confessed, traversed, avoided, or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain, and prove, as this honorable court shall direct, and prays to be hence dismissed with his costs and charges in this behalf most wrongfully sustained. CHARLES TUFTS.

UNITED STATES OF AMERICA, *District of Massachusetts:*

March 2d, A. D. 1845. Then the said Charles Tufts personally appeared, and made solemn oath that the facts stated in the foregoing answer, so far as they are within his own knowledge, are true; and all other facts therein stated he believes to be true.

Before me, ELLIS G. LORING,
Commissioner and master in chancery.

A.

DR. *Mrs. A. Tufts, in account with Charles Tufts.* CR.

1832.				1832.			
Jan'y 1	To balance due		$207 38	Jan. 13	By cash rec'd of E. T. Hastings, bal. acc't		$5 49
18	cash paid Gookin	$1 12			board A. Drake, from April 25th to Nov. 12, 1831—28 5-7 wks., at 9s.		43 07
	" " for salt	93			14 yds. shirting, 1.75, half yd. linen, 56.		2 31
	" " her	62	2 67		making two pair shirts		1 00
	" " F. Cutter for bricks		70	April 5	cash received of F. Dana for seaweed		1 00
	" " Cutter & Perkins' interest, from July 1, 1831, to Jan. 1, for $4,014		120 42		board from Nov. 17, 1829, to date, 124 wks., at $3		372 00
Feb. 16	" " D. Stowe's bill	62		June 16	cash received of J. Sower & Co. for 80 loads sand, carted in 1831		4 00
	" " J. Childs' bill	4 06			cloth for pantaloons, and pr. socks		1 93
	" " Jas. Thwing's bill	3 08			cash received for asparagus		12
	" " C. & Perkins' bill, oil	4 25	12 01	22	" " "		10
Mar. 19	cash		1 76		" " for pork		2 50
	297 faggots, by Mr. Hastings		7 42	July 7	" " for S. Read & Co.		1 00
31	paid int. to C. & Perkins	47 04			" " for J. Mowe		1 51
	int. on $1,000 from Jan'y 1	15 00	62 04	Sept. 11	" " for pig		3 50
April 19	cash paid N. Fiske & Co	10 00			" " of E. Hovey		7 00
	" " for shovel and hoe	2 12		Oct'r 8	" " for potatoes		13 71
	" " for seed 13, postage 38	51	12 63		board from April 5 to Oct. 6, 26 wks., at $3		78 00
May 7	" " P. R. Russell	1 40		26	cash received for seaweed		2 25
	" " "	4 00	5 40	Nov. 12	" " " "		1 50
21	" " "	3 00		16	" of J. Dodge for pew rent		75
	" " A. A. Hilliard	1 49	4 49		" of J. Conant for stove		4 00
30	cash		4 50		" of G. Leonard for seaweed		25
June 18	" " for coal	4 62		21	" of L. Wheeler		62
	" " E. T. Hastings, for salt	1 07	5 69		" of Mrs. Chadwick		48
25	" " N. Fiske & Co., for grain	1 32		Dec. 15	" of Downing, for hay		15 00
	" " D. L. Mudge	1 00	2 32		" " of Parks, for turnips		60
July 6	due bill allowed to J. Hastings		4 49	31	" " " "		2 00
	cash paid for bread		13		" " " " hay		3 60
	" " A. Cutter's interest		44 33		stocks of Goodwin		1 00
	int. on $1,181.71, from Ap'l 1 to July 1		17 73				
			62 06				

Tufts vs. Tufts et al.

1822. 25.

DR. *Mrs. Anna Tufts in account with Charles Tufts*—Continued. CR.

1832.				1832.		
July 21	To cash paid for grain and flour		$5 00		By board from Oct. 4th, to date—12 4-7 wks	$37 71
	" " scythes and bread		1 75		Balance carried forward	185 42
Aug. 29	" $5, paid for weighing hay, 33		5 33			
Sept. 1	" paid for meal		1 90			
12	" " J. Draper		19 02			
19	" 50, pair ducks, 67		1 17			
27	" paid for hoes and bread		1 00			
Oct'r 1	" " A. Cutter's interest	$44 33				
	interest on $1,181.71, from July 1	17 73	62 06			
4	my note to J. Mathews, for work		68 00			
19	cash paid for glass and pepper		1 00			
30	" " F. Manson, taxes		9 45			
Nov. 12	Cash		75			
16	" paid S. Hancock	75				
	" " for tolls	25	1 00			
28	" " for meal	1 17				
	" " for apples and tan	88				
	" " for carpeting	7 72	9 77			
	Am't rec'd for produce in 1831, over half		23 32			
Dec. 12	Cash paid for meat, hay, &c		1 56			
22	" " for meal, saw, &c	2 71				
	" " for tolls and weighing hay	46	3 17			
31	" " A Cutter's int. on $2,955.27		44 33			
	int. on $1,181.71, from October 1		17 73			
			$793 42			$793 42
1833.				1833.		
Jan'y 1	To balance brought forward		185 42	Jan. 12	By cash received for sea weed	$2 87
11	cash paid N. Fiske & Co	4 62		Feb'y 4	" " of J. Dodge	75
	" " E. Davis, for ashes	1 69	6 31		1 pair shirts	2 00
22	" " for killing hog		62	Mar. 9	cash received of Downing, for hay	51 56
Feb. 9	" " for coal		4 50		1 pair stockings	62
26	" " A. Cutter		9 00			

Mar. 2	" " for meal and meat		1 82
5	" " J. Thwing		50
20	" " J. Read		4 00
	Am't carried forward		$211 67
	To amount brought forward		212 17
20	cash paid Kingsley		24 10
	" " J. Child's bill		9 24
April 1	int. on $4,014 from January 1 to date		60 21
5	cash paid Brown for drake		50
10	" " H. G. Ware for raisins	84	
	" " for weighing hay and seed	28	
	" " for butter	$8 25	9 37
18	" " for lime and raisins		2 01
27	" " for glass	25	
	" " N. Fiske & Co	14 42	14 67
May 1	" " for grain		2 70
9	" " for tin pan, &c		1 39
18	" " for oil	5 00	
	" " for corn	6 11	
	" " Gookin	50	11 61
20	" " pew tax	13 50	
	" " for potatoes, &c	3 13	16 63
30	" " for shoes for D	67	
	" " for corn and potatoes	6 85	7 52
June 15	" " N. Fiske & Co	12 88	
	" " for postage	21	13 09
July 1	int. on $4,014 from April 1 to date		60 21
23	cash paid N. Fiske & Co. for grain		24 00
Aug. 7	" " for meal		2 12
13	" " for brick and spices		38
Sept. 14	" " for meat	67	
	" " N. Fiske & Co	17 80	18 47
Oct. 1	int. on $4,014 from July 1	60 21	
	deduct int. on $70 from Sept. 6	28	59 93
	cash paid Buck		50
17	" " for killing hog, &c		88
Nov. 20	" " for coal, &c		4 37
	" " N. Fiske & Co		11 61

	Amount carried forward	$57 80
	By amount brought forward	57 80
April 1	cash received of A. Cutter	25 67
	board to date, 12 6-7 weeks	38 57
May 18	cash received of J. Dodge	75
June 17	" " for fruit	1 63
July 1	" " for sundries	8 69
15	" " of G. Manson	6 38
Aug. 3	" " of J. Dodge	75
31	" " of J. Sargent	182 25
Oct. 1	" " of L. Richardson	1 50
	" " of T. Short	25
	" " of A. Cutter	40 00
30	" " for seaweed	2 75
Nov. 1	" " for seaweed	1 25
Dec. 13	" " of Whitney	1 15
	" " of Wheeler	85
26	" " of B. Smith for hay	16 65
1834.		
Feb. 13	" " of J. Dodge	75
	2 pair shirts	2 38
Mar. 26	T. Short, sundries	19 91
	cash received for straw	6 83
April 7	" " for hay	16 84
25	" " of Mrs. Seaver	24 00
May 10	" " of J. Dodge	75
Aug. 21	" " of J. Dodge	75
Oct. 6	" " R. Douglass	18 00
	" " J. Foster	2 00
	" " Denton	2 83
24	" " on account	15 00
Nov. 21	" " of J. Dodge	1 50
	" " R. C. Manners	22 00
	work on road to magazine	18 00
Dec. 17	cash received of Pierce for hay	35 00

Tufts vs. Tufts et al.

1823. 21.

DR. *Mrs. Anna Tufts in account with Charles Tufts*—Continued. CR.

1833.				1835.		
Nov. 25	To cash paid J. Locke, $2, for lime, $1 25		$3 25	Jan. 1	By board from April 1, 1833, to date, 91 weeks, at $3	$273 00
Dec. 2	" " for coal, &c.		4 65		attendance at magazine	100 00
4	" " F. Manson, taxes		9 99			
	" " S. Hancock's bill		2 62		balance to new account	633 33
	" " McDuffie		50			
1834.						
Jan. 1	int. on $3,944 from Oct. 1 to date		59 16			
	cash paid N. Fiske & Co.	$12 80				
	" " Coal	4 00	16 80			
Feb. 6	C. Haynes's bill, groceries		421 12			
Mar. 26	T. Short's bill, manure, 1831, 1833		60 00			
April 1	int. on $3,944 from Jan. 1		59 16			
12	cash paid for grain		1 51			
May 12	" " Elbridge to buy books		2 00			
	" " N. Fiske & Co.		16 34			
June 6	" " for potatoes and hay		5 34			
17	" " W. Thayer	1 00				
	" " J. Childs	17 00				
	" " acct. cow	5 00	23 00			
July 1	int. on $3,944 from April 1		59 16			
Aug. 7	cash paid N. Token	10 50				
	" " W. Thayer	12 00				
	" " for butter	2 00	24 50			
Sept. 16	" " W. Thayer	3 67				
	" " A. Cutter	6 00				
	" " for butter	2 71	12 38			
Oct. 1	int. on $3,944 from July 1, 3 mos.		59 16			
	cash, kegs	2 50				
	cash paid N. Childs	2 00	4 50			
6	" " pew taxes	30 00				
	" " for grain	2 00	32 00			
23	" " for coal	5 00				
	cash to pay A. Churchill	15 00				
	cash paid for ploughs	7 00	27 00			

Nov. 1	cash paid for soapstone	1 25	
	1 qr. cask powder sold	3 25	4 50
21	cash paid for butter	10 62	
	" " F. Manson, taxes	10 32	20 94
Dec. 6	" " J. Mathews for 2 mos. work		22 00
20	" " for killing hog		1 34
	int. on $3,944 from Oct. 1, 3 mos.		59 16
			$1579 76
1835.			
Jan. 1	To balance brought forward		633 33
5	cash paid J. Thwing	62	
	" " A. Cutter account note	$20 00	20 62
31	" " S. Hancock, balance		3 53
Feb. 9	" " for butter, 52 lbs., at 18 c		9 36
	" " ½ ton coal		4 25
Mar. 3	" " L. Daniels	10 12	
	" " for coal	4 25	14 37
7	" " C. & Perkins	2 00	
	" " J. Childs' account	15 00	17 00
24	" " for coal	4 50	
	" " on account	4 00	8 50
April 1	int. on $3,944 from January 1		59 16
	cash paid N. Fiske & Co.	8 84	
	" " M. & Brooks	11 28	
	" " J. Childs' balance	5 78	
	2 qr. casks powder sold	6 50	32 40
May 11	cash paid for 12 bushels potatoes	6 00	
	" " for grass seed	11 12	
	" " for 12 bushels potatoes	7 00	24 12
30	" " for 15½ bushels potatoes	8 16	
	" " for 2 casks plaster	3 00	11 16
June 6	" " for potatoes		7 00
	" " F. Coolidge, tax on pews		18 00
	" " A. Rice for manure		15 00
	" " A. Brown for butter		3 00
	" " for 1 cask plaster		1 50
July 1	interest on $3,944 from April 1		59 16

Jan. 19	By cash received of S. Read & Co.	2 50
March 3	" " of J. Dodge	1 50
	cash on account	11 00
	1 pair shirts	1 00
May 9	cash received of J. Dodge	1 50
	" " of A. Putnam	5 83
June 20	1 pair shirts 1 50	
	1 pocket handkerchief 1 06	2 56
Sept. 6	cash received of J. Dodge	1 50
	" " of sch. for work	62
Nov. 10	" " of J. Dodge	1 50
	" " for seaweed	50
	" " for 2 bushels turnips	50
	1 pocket handkerchief	83
	board from Jan. 1 to date, 52 w'ks, at $3	156 00
Dec. 31	services account magazine	100 00
	balance to new account	1242 84
		$1579 76

Tufts vs. Tufts et al.

1824. 29.

DR. *Mrs. Anna Tufts in account with Charles Tufts*—Continued. CR.

1835.							
July 28	To cash paid for sugar and tea	$3 56					
	" " P. B. Hovey	1 43					
	" " C. Haynes' bill	223 24	$228 23				
Aug. 17	" " T. W. Short for manure		25 00				
	" " estate J. L. Jennison		4 40				
Sept. 6	" " John Mathews		12 00				
10	cash received of E. Willard for powder		54 00				
	" " of D. & L. Bowman		75				
Oct. 1	interest on $3,944 from July 1		59 16				
	1 qr. cask powder sold		3 00				
Nov. 26	1 qr. cask Dup't powder sold		5 25				
	cash paid J. Mathews		75 50				
Dec. 5	" " tax bill	13 29					
	" " Whitney	1 00	14 29				
31	" " for boat		10 00				
	interest on $3,944 for October 1		59 16				
	interest on $633 33, balance due Jan. 1		37 98				
			$1530 18				$1530 18
1836.				1836.			
	balance brought down		1242 84	Jan. 18	By cash received of C. Smith		2 00
Jan. 21	cash paid J. Thwing	1 50			" " for seaweed		1 50
	" " D. L. Brown	3 78	5 28	Mar. 9	" " of S. Reed & Co		14 50
29	" " for 1 ton coal		6 67	14	" " of J. Dodge		1 50
Mar. 3	" " for ½ ton coal		4 26	May 6	" " of A. Putnam		14 00
14	" " taxes on pews	18 35	18 00	14	" " of J. Dodge		1 50
April 1	" " for barley	5 69		Oct. 1	" " of S. Reed & Co		2 50
	" " her	4 00	9 69		1 pair socks		58
	interest on $3,944 from January 1		59 16	Nov. 23	check from J. K. Frothingham		34 33
	cash paid for butter		16 80		3 pair shirts, 1 pair drawers		7 25
May 24	" " J. Childs' bill		20 00		cash received of Mosely		15 00
June 10	" " for bean poles	1 00		Dec. 31	board from January 1, 52 weeks		156 00
	" " Davis & Co	6 00	7 00		services account magazine		100 00

July	1	interest on $3,944 for April 1		59 16			
		cash paid F. Coolidge		1 00			
	6	2 qr. casks L. & B. powder sold		6 00			
		1 barrel flour of W. & Livermore		8 00			
		cash paid for grain	4 12				
		" " for fork	50	4 62			
Aug.	8	" " for salmon	1 40				
		" " banker	5 25				
		3 qr. casks powder sold	9 00	15 65			
Oct.	1	2 qr. casks powder sold		6 00			
		interest on $3,944 from July 1		59 16			
Nov.	23	cash paid for butter	20 92				
		cash of E. Wright	50 00				
		cash at Woburn	15 00				
		cash paid J. Hall	2 38				
		" " tax bill	28 14	116 44			
		To amount carried forward		$1665 73		By amount carried forward	$350 66
		To amount brought forward		1665 73		By amount brought forward	350 66
Dec.	31	cash paid for 3 tons coal		36 00	Dec. 31	balance carried forward	1596 51
		" " J. Childs' bill		14 86			
		" " C. Haynes' bill		96 85			
		int. on $3,944, from Oct. 1 to date		59 16			
		int. on $1,242.84, from Jan'y 1 to date		74 57			
				$1947 17			$1947 17
1837.							
Jan'y	1	To balance brought forward		$1596 51	Mar. 21	By 2 pr. socks, 1.50; 1 yd. linen, 1.12; 1 pr. drawers, 2.25	$4 87
	20	cash paid J. Thwing's bill	$1 41		April 26	C. Smith, for filling cannisters	3 00
		" " D. L. Brown's bill	1 47	2 88	Aug. 10	board, Masons	16 00
	30	" " for Mol. & Tubs		3 90		Horatio, work	25 50
Feb.	24	" " acct. Gorham's board		20 00	Nov. 30	cash paid for portrait frame	5 00
Mar.	27	" " H. N. Fiske		7 00		" 1 pr. gloves	1 00
April	1	" " Mason & Brooks' bill grain		104 00	Dec. 31	board to date, 52 wks	156 00
		int. on $3,944, to date, 1 qr		59 16		services acct. Magazine	100 00
May	12	2 qr. casks powder sold		6 00			
July	1	int. on $3,944, from April 1		59 16	1838.		
Aug.	19	1 qr. cask Dupt. powder, sold		5 25	Jan'y 1	note dated Jan'y 1, on demand	500 00

Tufts vs. Tufts et al.

1837.

DR. *Mrs. Anna Tufts in account with Charles Tufts*—Continued. CR.

1837.				1838.			
Sept. 12	To 1 qr. cask L. & B. powder, sold		$3 00		By bal. acct. ent'd as cash, to bal. books, but nothing paid		$1289 23
Oct. 1	int. on $3,944, from July 1		59 16				
12	3 qr. casks powder, sold		11 25				
23	4 " " do. "		12 00				
Nov. 15	7 " " do. "		21 00				
Dec. 30	3 " " do. "		9 00				
	cash paid S. Mason		10 00				
	" " M. & Luke, for coal		13 00				
31	int. on $3,944, to date		59 16				
	cash paid tax bill		23 67				
	" " for 2 ton coal		15 50				
			$2100 60				$2100 60
Feb. 10	To 2 qr. casks powder, sold		$5 75	May 10	By cash rec'd of Town		$15 75
Mar. 1	1 tub butter, 51½ lb., at 20 c.		10 30		" " of Ames		3 50
April 1	int. on $3,944, from Jan'y 1		59 16	Dec. 31	board to date, 52 wks		156 00
May 30	cash paid for hay	2 46			services acct. Magazine		150 00
	" " J. Thwing	75	3 21		cash rec'd for apples		12 00
June 15	" " J. Childs	6 00			balance carried forward		449 84
	" " M. & Brooks	63 93					
	" " for potatoes	11 00	80 93				
July 1	int. on $3,944, 3 mos.		59 16				
	1 qr. cask powder sold		2 75				
	cash paid P. B. Hovey & Co.		10 27				
21	" " S. & Brown's bill, posts		2 25				
Aug. 1	" " taxes on pews		30 00				
	" " J. Fillebrown		14 00				
8	" " for 50 lb. w. lead	4 50					
	" " H. Burrows	1 50					
	" " acct. K. & Davenport's bill	15 00					
	" " for salmon	2 00					
	" " for 1 ton coal	8 75					
	" " acct. cows	1 00	32 75				

Sept. 14	" " her	5 00	
	" " N. Bent, for lumber	12 83	17 83
1838.			
Sept. 20	" " J. Walden, wages		12 00
Oct. 1	int. on $3,944, from July 1		59 16
16	cash on acct.	6 00	
	" for 1 qt. fish	4 75	10 75
Nov. 14	" rec'd of Merrill, for powder		12 50
30	" " of Barker, for powder		10 00
	" paid for 20 bus. potatoes		9 00
Dec. 15	" rec'd of Merrill, for powder		12 50
	" paid S. Smith's bill		40 00
26	" paid D. P. Wise, bill		7 96
	3 qr. casks powder, sold		7 50
31	cash paid for 1 bbl. flour	9 25	
	" paid acct. pew tax	5 00	
	" paid G. H. Thwing	14 11	
	" paid tax bill	24 88	53 24
	Mason & Brooks' bill, grain		49 92
	C. Haines & Co. bill, sundries		115 04
	int. on $3,944, from Oct. 1		59 16
			$787 09

1839.			
Jan'y 1	To balance brought forward		$449 84
25	2 qr. casks powder, sold		5 50
Feb. 21	1 " " " "		2 50
April 1	int. on $3,944, from Jan'y		59 16
	cash paid G. S. Adams' bill, mason work		14 00
18	1 qr. cask L. & B. powder, sold		2 75
May 1	1 " " Lafayette do. "		2 50
14	cash paid E. T. Hastings		7 00
July 1	int. on $3,944, to date		59 16
5	cash paid her	$25 00	
	6 M shingles	20 00	
	1 salmon, 6 lb., at 23	1 38	
	paid freight, &c., on corn	14 74	61 12
Aug. 3	cash paid A. Johnson, bal. acct.		12 50

1839.			
May 14	By cash rec'd of S. Smith		$5 33
23	" " of W. Howlett		3 00
Sept. 27	cash rec'd of J. Gould		3 00
Dec. 31	board 52 wks. at $3		156 00
	services acct. Magazine		150 00
	balance carried forward		544 82
			$787 09

1837.

DR. *Mrs. Anna Tufts in account with Charles Tufts*—Continued. CR.

1839.				1839.			
Oct. 1	To int. on $3,944, 1 qr. rent		$59 16				
	cash on acct.	$10 00					
	" on pew tax	6 00	16 00				
5	" B. & Bowman		8 53				
18	1 qr. cask Dupt. powder, sold		5 25				
Nov. 16	cash paid for 2 cords wood, dld. Reynolds		10 13				
	cash paid G. H. Thwing, bill		90				
Dec. 31	int. on $3,944, from Oct. 1, rent		59 16				
	int. on $449.84, bal. due Jan'y 1		26 99				
			$862 15				$862 15
1840.				1840			
Jan'y 1	To balance brought forward		$544 82	Mar. 10	By cash received of J. Burrage		$17 40
Feb. 21	cash paid tax bill, 1839	26 99			" " of A. Rice		8 20
	" " insurance	6 85	33 84	April 28	" " of C. W. Lovett		77 00
	" " Mr. Woodward, on acct		25 00	May 10	" " of Town		10 65
Mar. 20	" " acct	12 00		Dec. 8	" " of N. Fiske		10 00
	" " for fish and flour	4 25	16 25	31	board 52 wks., at $3		156 00
April 1	int. on $3,944, 3 mos. rent		59 16		services acct. Magazine		150 00
	1 qr cask Dupt. powder, sold		5 50		balance to new acct		985 20
	cash paid acct. pew tax	6 00					
	" " " Smith	8 00	14 00				
May 10	" " for trees	6 00					
	" " for seed	6 42	12 42				
20	" " for oats	4 43					
	" " for potatoes	4 80	9 23				
June 1	" " her		4 00				
27	" " Lewis	3 08					
	" " Hatch, wages	30 00	33 08				
July 1	int. on $3,944, 3 mos. rent		59 16				
	cash paid for corn	2 16					
	" " T. Griffin, wages	15 50	17 66				
22	" " N Davis	15 00					

	" " Morse	3 75	18 75
Sept. 28	" " N. Fiske		80 00
Oct. 1	int. on $3,944, 3 mos. rent		59 16
	cash paid for lot chickens		9 00
12	my note to J. Burrage & Co., dated Oct. 12, payable in 1 year, with int.		65 00
22	my note to P. O'Bryan, on demand		78 95
Dec. 8	cash paid P. O'Bryan	7 00	
	" P. B. Hovey & Co	3 69	
	" her	16 00	26 69
21	" P. O'Bryan		8 00
31	" C. Haines & Co	33 16	
	" P. O'Bryan	5 00	
	" G. H. Thwing	13 14	
	" tax bill	26 33	
	" for oil	1 25	78 88
	int. on $3,944, 3 mos. rent		59 16
	int. on $544.82, bal. due Jan'y 1		32 68
	cash paid D. P. Wise, bill	55 56	
	" " M. & Brooks	3 00	
	" " for 1 bbl. flour	5 50	64 06
			$1414 45

1841.			
Jan'y 1	To balance brought forward		985 20
30	cash paid Deborah	8 50	
	" " Pat. O'Bryan	3 00	
	" " T. W. Short	8 25	19 75
Feb. 8	" " Deborah		1 00
Mar. 6	" " for 1 bbl. flour		4 75
			$1010 70
	To amount brought forward		1010 70
Mar. 31	cash paid Fairfield & Lincoln	50 00	
	" " for hay and oats	5 34	
	" " P. O'Bryan	44 00	99 34
May 19	" " for hay	2 40	
	" " for veal	1 53	
	" " Deborah	3 00	6 93

		$1414 45
1841.		
Feb. 24	By cash rec'd of Deborah	$50 00
		$50 00
	By amount brought forward	50 00
Sept. 17	cash received for work on road	24 00
	" " of Sinclair	28 50
Dec. 31	board to date	416 00
	services account magazine	150 00
	balance to new account	2291 67

1837.

DR. *Mrs. Anna Tufts in account with Charles Tufts*—Continued. CR.

1841.						
28	To cash paid for potatoes	$5 00				
	" " Deborah	10 00	$15 00			
July 29	" " P. B. Hovey & Co., bill		6 41			
	" " for box charcoal		1 50			
	cash 1 qr. cask powder sold		5 50			
Sept. 17	my note to J. Mathews, dated Sept. 10, at 1 year, to take up her note		125 00			
	cash paid N. Fiske		6 00			
Oct. 16	" " P. O'Bryan account wages		30 00			
Nov. 10	" " tax bill, 1841		41 31			
Dec. 31	" " P. O'Bryan	5 00				
	" " Gavett & Co	16 56	21 56			
	C. Haynes & Co., bill sundries		88 78			
	M. & Brooks, bill sundries		96 74			
	G. H. Thwing, bill sundries		29 63			
	amount div'd P. Tufts's, jr., estate, due August 12, 1828		255 55			
	interest on the above, to date		204 48			
	" " $985 20, bal. due Jan. 1		59 10			
	" " $3,944, from Jan. 1, being rent		236 64			
	" " note for $500, dated Jan. 1, 1838		120 00			
	" " note, dated Jan. 1, 1838		500 00			
1842.			$2960 17			$2960 17
Jan. 1	To balance brought forward		2291 67			
Mar. 30	cash paid P. O'Bryan, account wages		37 00			
	my note to do., on demand, bal		100 00	1842.		
Aug. 10	cash lent		10 00	Oct. 12	By board from Jan. 1 to date, 40 5-7 weeks, at $8	325 71
30	1 qr. cask Dup't powder sold		5 25			
	cash paid due bill to W. B. Bridge		7 05	Dec. 31	services account magazine	150 00
	" " tax bill, 1842		38 64		less amount paid C. Smith	13 40 136 60

Dec. 31	rent house and land, and int. on bal. acct., due Jan. 1, for 1 year	387 50		balance to new account	2414 80
		$2877 11			$2877 11
1843.					
Jan. 1	To balance brought forward	2414 80	1843.		
Dec. 31	cash paid taxes	40 00	Dec. 31	By 290 quarts milk, at 6 cents	17 40
	rent house and land, and int. on bal. due Jan. 1, 1 year	394 88		services account magazine	150 00
				balance carried forward	2682 28
		$2849 68			$2849 68
1844.					
Jan. 1	To balance brought forward	2682 28	Dec. 31	By cash received of A. Cutter	2 00
Feb. 10	1 qr. cask Dup't powder sold	5 25		services account magazine	150 00
Sept. 5	1 qr. cask Dup't powder sold	5 25		balance carried forward	3007 32
Oct. 12	1 sixth cask Dup't powder, rifle, sold	3 00			
Dec. 31	cash received of Hadley, for gravel	12 60			
	cash paid taxes, 1844	40 00			
	rent house and land, and int. on bal. due Jan. 1, 1 year	410 94			
		$3159 32			$3159 32
1845.					
Jan. 1	To balance due	3007 32			

CHARLES TUFTS.

Tufts vs. Tufts et al.

1838.

Amendment to Charles Tufts' answer.

UNITED STATES OF AMERICA,
Circuit court for the district of Massachusetts:

ANNA TUFTS
vs.
CHARLES TUFTS et al.

The said Charles Tufts amends his answer to complainant's said bill by adding thereto the following, to wit:

This defendant further answering says, that about four years ago he leased verbally to Thomas Pierce, of West Cambridge, a piece of marsh land, containing about five acres, and a part of the premises which the said complainant now claims to have conveyed to her by this defendant; that for the three first years the said Pierce paid this defendant thirty-five dollars a year, and for the last year thirty two dollars a year; that, ever since the said marsh land was leased to said Pierce, he, said Pierce, has mowed the same and had the hay every year; that, before the said marsh was leased to said Pierce, the said complainant had cut the grass on said marsh land, and had the hay; that the said complainant knew that the said marsh land had been leased to said Pierce, soon after it was done, and she never made any objection to it; that this defendant never credited said complainant with any part of the rent received by him of said Pierce. The said defendant leased the said land to said Pierce without consulting the said complainant; this defendant claiming and exercising the right to lease the land as his own. This defendant further says, that the last account rendered by this defendant to the said complainant was in January, 1842; being the account annexed to his said answer, closing December 31, 1842, for the preceding year.

This defendant further answering says, that, at the beginning of the year 1837, he began to keep his books by double entry, having before kept them by single entry; that, on the first day of January in that year, he commenced a stock account, in which he entered all his property. Among the items charged to stock on that day, are "Mrs. A. Tufts, $1,596.51," being the balance of her account on that day; and "Cambridge estate, amount paid Ammi Cutter, $3,944." If he had considered the price paid for the estate a debt due from the complainant, he would have charged the last named sum to her instead of the estate; but he charged it to the estate, because he considered the premises claimed in the complainant's bill as absolutely his own and not hers.

CHARLES TUFTS.

UNITED STATES OF AMERICA,
District of Massachusetts:

On this 21st day of April, A. D. 1845, personally appeared the said Charles Tufts, and made solemn oath that the facts stated in the foregoing amendment to his answer are true, so far as they are within his personal knowledge, and all other facts therein stated he believes to be true.

FRANCIS BASSETT, *Clerk.*

The answer of Emerson Wheeler.

UNITED STATES OF AMERICA,
Circuit court for the district of Massachusetts:

ANNA TUFTS
vs.
CHARLES TUFTS et al.

The answer of Emerson Wheeler, one of the defendants, to the bill of complaint of said Anna Tufts, against this defendant and Charles Tufts.

This defendant, now and at all times, saving and reserving to himself all advantage of exception to the errors and imperfections contained in the said bill of complaint, for answer thereto, or to so much thereof as he is advised it is material for him to make answer unto, says:

He admits that said Peter Tufts died seized, possessed, and entitled to the tracts, pieces, and parcels of land described in said bill; that said Peter Tufts made his last will and testament, and thereby named and appointed the said complainant executrix thereof, as set forth in said bill; and thereby authorized her to make sale of his real estate for the purposes set forth in said bill.

And this defendant admits that said complainant accepted the office of executrix of said will, and that said will was proved and established in the probate court, as set forth in said bill.

And this defendant admits that, after the death of said Peter Tufts, it appeared that his estate was insolvent, and his real and personal estate insufficient to pay all his just debts, and that it thereby became necessary to make sale of the said lands and tenements described in said bill.

And this defendant admits, that the said complainant sold the said premises, described in said bill, to said Ammi Cutter and Daniel Cummings, at public sale, for the sum or price mentioned in said bill; and that said Cutter and Cummings were co-partners, and received conveyances of the said premises, as set forth in the said bill.

And this defendant does not admit, and does not believe, but denies, that the said Cutter and Cummings, at the time of her making the said deeds and conveyances to them, mentioned in said bill, or at any other time, ever bargained, agreed, and promised, with and to her, that she should retain the possession of and occupy the said premises, and receive the income and profits thereof, and that they would convey the same to her to hold in fee simple whenever she should pay to them, the said Cutter and Cummings, the moneys which they agreed to pay and had paid therefor, and interest thereon at six per cent. until such payment; and this defendant does not admit, and does not believe, that said complainant ever agreed to pay said Cutter and Cummings such a price, or any other price for the premises; or that they, said Cutter and Cummings, ever made any bargain or agreement by which they bound themselves to sell and convey said premises to her.

And this defendant further answering says, that he admits that said

Cutter and Cummings did permit the said complainant to retain possession of the said premises, and to receive the income and profits thereof; but denies that it was under any agreement such as she has set forth in her bill, or any agreement by which they were bound to sell said premises to her. And this defendant does not know, and does not believe, that said Cutter and Cummings encouraged the said complainant to expend large sums, or any sums, of money in repairs, betterments, and improvements of the premises, and in paying taxes thereon; and does not believe, but denies, that she ever spent any sums of money in repairs, betterments, improvements, or taxes, or otherwise, on said premises as long as said Cutter and Cummings owned the same, or as long as either of them continued interested therein; except that he has been informed, since her said bill was filed, that while said Cutter and Cummings owned the said premises, the roof of the kitchen on said premises was raised, which cost about seventy-five dollars, and was paid by her; and that the house on the premises was painted during that time, and the price was paid by said Cutter and Cummings, and not by her.

This defendant says, that he has been informed, and believes, that said Cummings retired from said co-partnership as set forth in said bill; and that in his place said Perkins became partner with said Cutter; and that said Cummings conveyed to said Perkins his, said Cummings', interest in the said premises; and this defendant believes that said Perkins never at any time had any notice of any such bargain, agreement, or understanding of said Cutter and Cummings with said complainant, as is set forth in said bill, because this defendant does not believe there ever was any such bargain, agreement, or understanding with said Cutter and Cummings, or any bargain, agreement, or understanding by which said Cutter and Cummings bound themselves to convey said premises to her.

This defendant admits that, after the conveyance made by said Cummings to said Perkins, the said complainant was permitted to retain possession of the premises, and to receive the income and profits thereof; but he does not know, and does not believe, but denies, that she was encouraged and induced to make repairs and betterments upon the premises, and pay taxes levied thereon, while said Perkins was an owner thereof, or that she did during that time make any betterments upon the premises, or pay any taxes levied thereon; and that, if she made any repairs, they were very small in amount.

This defendant admits that said Perkins conveyed his interest in the said premises to said Cutter, as set forth in the bill; but this defendant does not admit, and does not believe, but denies, that said Cutter received the said conveyance under and subject to any such bargain, agreement, or understanding with said complainant, to convey the said premises to her, as is set forth in the said bill, or under and subject to any bargain, agreement, or understanding for the benefit of said complainant.

This defendant admits that the said complainant, while said Cutter was sole owner of the said premises, was permitted to remain in posses-

sion of the same, and to receive the income thereof; but this defendant does not believe that the said Cutter encouraged her to do so, or to expend large sums of money, or any sums, in making repairs, betterments, and improvements, and paying taxes upon the premises; and this defendant does not believe, but denies, that during the said time she expended any sums of money for such purposes, or any of them, except possibly some very small sums for repairs. This defendant believes that said Cutter hoped that the said complainant would buy the said premises, and was willing she should, but does not believe that she ever made any contract or agreement, verbal or written, with said Cutter to purchase the same, or that he ever bound himself to sell the same to her.

This defendant does not know, and does not admit, that any persons applied to said Cutter to purchase a small portion of the premises, and were by him referred to the said complainant to obtain her consent to the sale thereof; and does not know, and does not admit, that any consent was given by said complainant; and, if the facts of such application, reference, and consent be material, prays that the said complainant may be held to prove the same.

This defendant has been informed, and believes, that the said Cutter sold a small part of the premises to Kinsley and Low for one hundred dollars, but whether with the consent of said complainant he does not know, and if the fact of such consent be material, prays that she may be held to prove the same. And this defendant does not believe, but denies, that said complainant ever received the consideration for the part of the premises so sold to said Kinsley and Low, or for any part of the premises sold by said Cutter, but believes that said Cutter solely received the consideration for every portion of the said premises sold by him.

This defendant admits, that said Ammi Cutter, on or about the said first day of February, A. D. 1834, conveyed the said premises to said Charles Tufts, but this defendant does not believe, and denies, it was because the said Cutter was apprehensive that he might become insolvent, or that the premises might be seized by his the said Ammi's creditors, and that the said Anna might thereby be prejudiced, as alleged in her said bill of complaint; but on the contrary, this defendant is informed, and believes, that said Charles Tufts agreed with said Cutter as early as July, 1831, to purchase the said premises of said Cutter, or said Cutter and Perkins, for the sum or price of four thousand and fourteen dollars, which amount said Cutter, who was then in good credit, represented to be the amount they had paid for the same, with interest and expenses ; and on or about the thirteenth of January, A. D. 1832, the said Charles Tufts paid said Cutter one thousand dollars on account of the said purchase of the said premises. This defendant further says, that he is informed, and believes, that before the agreement to sell to said Charles Tufts as aforesaid, the said Cutter and Perkins had advertised the said premises for sale in one or more newspapers for several weeks, and that they were desirous to sell the same.

This defendent further answering says, that he is informed, and believes, that neither said Cutter, nor said complainant, nor any other person, ever requested said Charles Tufts, and that said Charles Tufts never did agree, to hold the said premises subject to any such trust or agreement as is set forth in the said bill; and that said Charles Tufts never did agree nor was he ever requested to agree by said Cutter, or said complainant, or any other person, to convey the said premises to said complainant, upon her paying to him the price which said Cutter and Cummings had paid for the same, with interest thereon, whenever the said complainant might choose to pay the same, as alleged in her said bill, or hold the same for the benefit of said complainant; and this defendant believes that at the time said Cutter conveyed the said premises to him, said Charles Tufts had no notice of any agreement or understanding by which said Cutter was under any legal or honorary obligation to convey the said premises to said complainant, on her paying the price paid by said Cutter and Cummings with interest thereon, as set forth in her said bill, or of any agreement, bargain, or promise by which said Cutter was bound to sell the said premises to her; and that the said complainant never agreed, in writing or otherwise, to purchase the said premises of said Charles Tufts for any price or in any manner.

This defendant says, he believes said Charles Tufts purchased the said premises of the said Cutter, and that said Cutter conveyed them to him by two warranty deeds, and that said Charles Tufts mortgaged back to said Cutter that part of the premises lying on the east side of the street, to secure the sum of fifteen hundred dollars, and that part of the premises lying west of the street to secure the sum of five hundred dollars, the latter sum this defendant believes said Charles Tufts has paid; and that the other still remains unpaid, and that said Charles Tufts has paid interest on the same semi-annually.

This defendant says, that he believes the sum which the said Charles Tufts paid said Cutter for the said premises was a fair price, and the full value of the same when they were sold, and as much as said Cutter could get offered for the same.

The said defendant further answering says, that he believes said Charles Tufts did not, at or about the time when said Cutter conveyed said premises to him, or at any other time, inform the said complainant that he, said Charles, had notice of the supposed agreement alleged in the said bill to have been made with her by said Cutter, or said Cutter and Cummings, or that he would hold the said premises subject to any such agreement as is set forth in her said bill; and that said Charles Tufts never did promise the said complainant that he would hold the said premises for her benefit, and whenever she should pay the price alleged in said bill, and interest thereon, he would convey the premises to her.

This defendant admits, that said Charles Tufts has permitted the said complainant to remain in possession of the whole of the said premises, till he made the said sale to this defendant, and has allowed her to enjoy the income thereof, and this defendant believes said Charles did this out of kindness and regard to her, and on account of her poverty, she

being his father's widow, and having then six young children: but this defendant says, that he believes the said complainant has made very few and small repairs on the premises, since she has so occupied them, not amounting, as he is informed and believes, in all to a hundred dollars; and that the buildings and fences are now in much worse repair than when she took them. This defendant does not believe, but denies, that the complainant has paid for any betterments or improvements on the said premises since the said Charles purchased the same; but believes that said Charles has paid for all which have been made thereon.

This defendant is informed, and believes, that the said complainant has never paid the taxes on said estate while the said Charles has owned it, but that said Charles has always paid them; that the said Charles never regarded her as the equitable owner of the estate.

This defendant is informed, and believes, that said Charles Tufts never conveyed any part of said premises to said Goldsmith, nor was said Goldsmith ever referred by said Charles to the said complainant, as alleged in the bill; but on the contrary, some person, on behalf of the said Goldsmith, applied to said complainant some time in 1833, and was by her referred to said Charles, who agreed to sell him a small strip of land to put a ropewalk on for $70, and said Cutter conveyed the same to said Goldsmith, and received the money for it. This defendant does not believe, but denies, that said Charles or said Cutter asked her consent to this sale. This defendant is informed, and believes, that said Charles, being unmarried, resided with said complainant as alleged in her bill, and assisted her in her business, and occasionally made out bills for her, and sometimes made entries for her in her account books; the entries however in the books were very few, not as he is informed and believes amounting to more than a page in a year, if so much; she sometimes made entries in the books herself. She kept bills that she had paid, and other papers, in the same desk in which said Charles kept his own account books.

And this defendant is informed, and believes, that said Charles rendered accounts to the said Anna annually; but that in said accounts he never charged her with any sum as the price of said premises, and never credited her with said sum of $70. This defendant does not know what became of the said accounts after they were rendered to her. He does not believe said Charles ever saw them after he handed them to her, and believes that they are not now in the possession, custody, or power of said Charles, and have not been so since he rendered them to her. He believes said Charles never had access to them, and that the said Charles does not know where she was in the habit of keeping them; and that he never took nor now withholds the said accounts from her. This defendant is informed and believes, that said Charles kept books from which the accounts rendered the said complainant were copied, but he believes that the said books and accounts would show that said complainant has no interest or claim in or to the premises, but he knows nothing of the entries in said books and accounts, and if the same be material, prays that the said complainant may be held to prove the same.

And the said defendant is informed, and believes, that said Charles Tufts did not repeatedly or ever assure the said complainant that he would comply with the agreement and promises alleged in her said bill, which agreement and promises, or any similar thereto, this defendant believes said Charles never made; and this defendant believes that said Charles never promised to convey the said premises, or any part thereof, to the said complainant, whenever she should pay the amount alleged by her, and interest, as alleged by her in her said bill: and never made any such or similar agreements or promises, or offers to the said Anna, in regard to the conveyance of said premises, as are set forth in said bill; and this defendant believes, that said Charles never repeated, declared, or admitted to the said Elbridge Tufts, Adeline Dowell, Anne Hughes, or Deborah Tufts, or to any person, that he held the said premises for the benefit of the said complainant upon the terms stated in her said bill, or any similar thereto; or that the said complainant upon the faith thereof had made repairs, betterments, improvements, or payments, as alleged in her said bill.

This defendant is informed, and believes, that the said complainant has never paid the taxes on said premises since the said Charles purchased the same, but that said Charles has always paid them himself; that she has paid for no betterments or improvements since the said Charles purchased the said premises; she may have paid some small sums for repairs, but the amount is very small indeed, not amounting, he is informed and believes, in all to one hundred dollars, since said Cutter and Cummings purchased the premises to the present time.

This defendant admits that the said premises are now of greater value than they were in 1832, but this is solely, he believes, in consequence of the rise in the value of land; but they are not nearly of the value stated in the bill. He considers the price he paid, seven thousand five hundred dollars, for the part he purchased of said Charles, was a fair price. He considers the remainder of the premises as worth about the same sum of $7,500. The assessors valued the whole of said premises at $9,000 last May.

This defendant is informed, and believes, that the said complainant never requested said Charles to convey the premises to her, except as follows. Since the complainant's said bill was filed, this defendant has been informed and believes that, within the last year or two, she has claimed a right to buy the said premises of said Charles, but that said Charles has always denied it; and she has, on some occasions during that time, asked said Charles if he would not convey the said premises to her on her paying the cost and interest, and that this he has always refused to do.

This defendant admits that, on the ninth day of September, A. D. 1844, said Charles Tufts conveyed to this defendant a part of said premises, bounded in the deed as follows, to wit: southeasterly by road leading from Cambridgeport, so called, to the Powder magazine, and named Magazine street; northeasterly by land and rope-walk of William and James Arkerson; northwesterly, westerly, and southerly by a pro-

prietors' way, or salt marsh, belonging to the heirs of Ephraim Cutter and others, to the first mentioned road, or however otherwise bounded, containing twelve acres, be the same more or less. The consideration named in said deed was seven thousand five hundred dollars, of which this defendant paid said Charles fifteen hundred dollars in cash, and for the remaining six thousand dollars gave said Charles this defendant's note, payable on the first day of April next, and secured by mortgage of the premises so bought by this defendant; and this defendant says, that the sale of the said premises to this defendant was a true and bona fide sale, for the consideration expressed in the said deed to this defendant; and this defendant denies that the said complainant has any right or claim in or to the premises so bought by him.

And he further says that, on the thirty-first day of August, A. D. 1844, he entered into a written agreement with said Charles, by which said Charles agreed to sell, and this defendant agreed to buy, that part of the said premises, afterwards conveyed to him on the same terms on which the sale was aftewards completed; a copy of which agreement, marked A, is hereunto annexed as a part of this answer.

This defendant further answering says, that until after the time of the said conveyance, made by said Charles to this defendant, and of the payment in cash and by note and mortgage therefor so made by this defendant, this defendant had no notice, knowledge, or suspicion that the said complainant set up any legal or equitable right, title, interest, or claim in or to the premises, except as tenant at will to said Charles; or any notice, knowledge, or suspicion of any of the trusts, agreements, or promises alleged by her in her said bill to have been made and created in her favor by said Cutter, Cummings, Perkins, or said Charles Tufts, in regard to said premises; or of any other trusts, agreements, or promises in her favor in regard to said premises.

This defendant further answering says, that he has known the premises purchased by him of said Charles Tufts for many years, and has supposed for some years that the complainant occupied them, but, during all the time he supposed her to be occupying them, he believed said Charles Tufts to be the owner thereof, and that she was merely a tenant at will to him; before this defendant took the said deed of said Charles, he had the title to the premises examined, and found from that that said Charles was the owner, as he before believed.

Some seven or eight years ago, this defendant wished to buy some gravel from the said premises bought by him, and called at the house occupied by her on the other part of the premises, said Charles then living with her; this defendant spoke to her about buying the gravel, said Charles not being at home, and the said complainant then told this defendant he must call on said Charles Tufts about it, as she had nothing to do with it. This defendant understood her to mean that said Charles owned the premises. This defendant afterwards bought the gravel of said Charles, and paid him for the same.

And this defendant says, that, by the Revised Statutes of the Commonwealth of Massachusetts, in the twenty-ninth, thirtieth, and thirty-

first sections of the fifty-ninth chapter thereof, it is enacted, that "All estates or interests in land, created or conveyed without any instrument in writing, signed by the grantor or his attorney, shall have the force and effect of estates at will only; and no estate or interest in lands shall be assigned, granted, or surrendered, unless by a writing signed as aforesaid, or by the operation of law;" and that "no trust concerning lands, excepting such as may arise or result by implication of law, shall be created or declared, unless by an instrument in writing, signed by the party creating or declaring the same, or by his attorney;" "and that no such trust, whether implied by law, or created or declared by the parties, shall defeat the title of a purchaser for a valuable consideration, and without notice of the trust;" and, by the first section of the seventy-fourth chapter of the said Revised Statutes, it is also enacted, that "no action shall be brought upon any contract for the sale of lands, tenements, or hereditaments, or of any interest in or concerning them, unless the contract upon which such action shall be brought, or some memorandum or note thereof, shall be in writing and signed by the party to be charged therewith, or by some person thereunto by him lawfully authorized;" and that the trusts supposed by the said complainant in her said bill to be created for her benefit, in regard to said premises, were not created or declared by any instrument in writing signed by said Cummings, Cutter, Perkins, or Charles Tufts, or by any attorney of either of them; and that neither the contracts supposed by the said complainant in her said bill to have been made by said Cutter, Cummings, Perkins, and Charles Tufts, respectively, for the sale of the said premises to her, nor any of them, nor any memorandum or note thereof, were in writing, signed by either said Cutter, Cummings, Perkins, or Charles Tufts, or by any person by either of them thereunto lawfully authorized; and that this defendant is a purchaser for a valuable consideration, without notice of the said supposed trusts, and therefore this defendant (not admitting, but wholly denying the existence of the said supposed trusts and contracts) insists that the said supposed trusts and contracts are wholly void as against him, and that he cannot be affected thereby; and this defendant claims the same benefit of the above-recited provisions of the Revised Statutes, as if he had pleaded the same in this cause; and this defendant, for the reasons and under the circumstances aforesaid, is advised and insists that the said complainant is not entitled to any relief against this defendant, touching the matters complained of in her said bill.

And this defendant denies all unlawful combination and confederacy wherewith he is charged by the said bill; without this, that there is any other matter or thing in the said complainant's said bill contained material for this defendant to answer, and not herein sufficiently answered, confessed, traversed, and avoided, or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain, and prove, as this honorable court shall direct; and prays to be hence dismissed, with his costs and charges in this behalf most wrongfully sustained.

EMERSON WHEELER.

UNITED STATES OF AMERICA, *District of Massachusetts:*

March 2d, A. D. 1845. Then the said Emerson Wheeler personally appeared, and made solemn oath, that the facts stated in the foregoing answer, so far as they are within his own knowledge, are true; and all other facts therein stated he believes to be true.

Before me, ELLIS G. LORING,
Commissioner and Master in Chancery.

[A.]

Be it remembered, that Charles Tufts, of Cambridge, has sold to Emerson Wheeler, of Brighton, all that part of the estate of the late Peter Tufts, jr., which is situated on the westerly side of Magazine street, in Cambridgeport, bounded northerly by Arkerson's ropewalk, being by estimation about twelve acres, more or less, for the sum of seven thousand five hundred dollars, to be paid as follows: fifteen hundred dollars on delivery of the deed, and the balance in said Wheeler's note, payable on the first day of April next, without interest, and secured by a mortgage on the same premises. Said Tufts to make and deliver a good and sufficient warranty deed, with release of dower, the estate to be free from incumbrances, the crops now on the premises to be taken off by said Tufts as soon as they are harvestable, and the deed to be delivered on or before the twelfth day of September next.

Witness our hands, this thirty-first day of August, A. D. 1844.

(Signed) CHARLES TUFTS,
EMERSON WHEELER.

Plaintiff's replication.

The replication of Anna Tufts, complainant, to the answers of Charles Tufts and Emerson Wheeler, defendants.

This repliant, saving and reserving to herself all and all manner of advantage of exception to the manifold insufficiencies of the said answers, for replication thereto saith, that she will aver and prove her said bill to be true, certain, and sufficient in law to be answered unto, and that the said answers of the said defendants are uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in said answers contained, material or effectual in the law to be replied unto, confessed and avoided, traversed and denied, is true; all which matters and things this repliant is and will be ready to aver and prove, as this honorable court shall direct; and humbly prays, as in and by said bill she hath already prayed.

ANNA TUFTS.

RAND, WARREN & FISKE,
For complainant.

Plaintiff's supplemental bill.

To the judges of the circuit court of the United States for the district of Massachusetts:

Anna Tufts, of Groton, in the State of Connecticut, widow, and a citizen of the said State of Connecticut, brings this her supplemental

bill against Charles Tufts, of Cambridge, in the district aforesaid, bookkeeper, and Emerson Wheeler, of Brighton, in the same district, citizens of the State of Massachusetts and thereupon your oratrix complains and says: That heretofore your oratrix brought her original bill of complaint against the said Charles and Emerson, which is now pending before this honorable court, stating as is therein stated, and praying that a certain deed of conveyance of certain lands and premises therein mentioned, from the said Charles to the said Emerson, may be decreed to be set aside and held for nought as against your oratrix; and that the said Charles and said Emerson may be restrained by the injunction of this honorable court, in the mean time, from conveying any part of the premises therein mentioned to any person other than your oratrix, and from transferring a certain mortgage therein mentioned, given to the said Charles, or any note or security given to the said Charles, therein mentioned, to any person other than your oratrix; and that an account may be taken of what is due to the said Charles from your oratrix, in respect of the said bonds and premises; and that the said Charles may be decreed by this honorable court, upon payment thereof, to convey the said lands and premises, excepting certain small portions therein mentioned, theretofore conveyed, by the consent of your oratrix, to your oratrix; and that your oratrix may have such other and further relief as to your honors shall seem meet, and as the circumstances of the case shall require. And the said defendants, respectively, being duly served with process of this honorable court for that purpose, appeared and put in their several answers to the said bill, and your oratrix replied thereto; and the said cause being at issue, a witness produced by your oratrix has been examined on interrogatories filed on both sides in the said cause, as by the said bill, answers, and proceedings in the said cause now remaining in this honorable court as of record, reference thereto being had, will more fully appear.

And your oratrix, by way of supplement, shews unto your honors, that since the said cause was at issue, the said Charles, combining and confederating with the said Wheeler, and with divers other persons unknown to your oratrix, notified your oratrix in writing, on or about the seventeenth day of April last, to quit the aforesaid lands and premises now occupied by your oratrix, and deliver up peaceable possession thereof to him in fourteen days from the date thereof, for an alleged nonpayment of rent, and has since that time, and on or about the second day of May instant, procured a certain writ or process from Abraham Edwards, a justice of the peace within and for the county of Middlesex, to be served upon your oratrix, bearing date the said second day of May, wherein your oratrix is summoned to appear before the said Edwards, at his office in Cambridge aforesaid, on the ninth day of May instant, at two of the clock in the afternoon, then and there to answer to the complaint of the said Charles, wherein the said Charles complains that your oratrix, on the day of the date of said writ, was in possession of the said land and premises, without law and against the right of said Charles; and the said Charles seeks, by such proceeding

at law, to obtain a judgment of the said justice for possession of the said lands and premises, and by process at law to remove your oratrix from the possession thereof, contrary to the agreement and understanding between your oratrix and the said Charles, set forth in her original bill aforesaid, and in violation of the equitable right, title, and interest of your oratrix therein and thereto. Notwithstanding that your oratrix has been in the quiet and peaceable possession of the said lands and premises since the death of Peter Tufts, her late husband, mentioned in said original bill, until the said notice in writing by the said Charles, a period of about twenty years, taking the issue and profits thereof, making alterations and improvements therein, and dealing with the same as her own, with a view to the having a complete title thereto, as set forth in the said original bill; and the said Charles, the greater part of the said period, admitting the equitable interest of your oratrix in the said lands and premises, with full knowledge of the premises, has resided in the family of your oratrix on the premises, assisted her in transacting and carrying on her business upon and in relation to the premises, and among other things in selling sand and gravel therefrom, on her own account, to the amount of several hundred dollars annually; and as appears by the books of account of the said Charles, produced by him since the said cause was at issue, in consequence of the proceedings of your oratrix, has credited to your oratrix, in his own handwriting, in said books, some of the proceeds of such sand and gravel received by him for the account of your oratrix, without ever questioning the right of your oratrix, by reason of her equitable interest therein, so to deal with the said lands and premises, and in the same books of account has charged your oratrix from time to time, during the said period, in his own handwriting, with interest on the sum paid and the sum agreed to be paid to Ammi Cutter, for a conveyance of the said lands and premises under the agreement set forth in the said original bill of your oratrix, thereby admitting the equitable interest of your oratrix in the premises. In consideration whereof, and forasmuch as the said proceedings at law, under the writ or process aforesaid, were not threatened by said Charles or anticipated by your oratrix at the time of the filing of her said original bill, but have happened since the said cause was at issue, your oratrix is unable to obtain adequate and complete relief, without the aid of this honorable court in equity. To the end, therefore, that the said defendants may, if they can, show cause why your oratrix should not have the relief hereby prayed, and may, upon their several and respective corporal oaths, according to the best and utmost of their several and respective knowledge, remembrance, information, and belief, full, true, direct, and perfect answer make to such of the several interrogatories hereinafter numbered and set forth, as by the note hereunder written they are respectively required to answer, that is to say:

1st. Whether the said notice in writing was not first given as aforesaid, since the filing of the said original bill of your oratrix, or how otherwise?

2d. Whether the said Charles is not proceeding at law as aforesaid for the purpose of removing your oratrix from the premises and lands aforesaid, or how otherwise?

3d. Whether such proceeding was not first threatened and commenced since the filing of the said original bill, and since the said cause was at issue as aforesaid, or how otherwise?

And that the said Charles and his confederates may be restrained by the order and injunction of this honorable court, from further prosecuting or proceeding at law, under the writ or process aforesaid, or commencing or prosecuting any other writ or process at law for a like purpose; and that your oratrix may have such other and further relief as to your honors shall seem meet, and as the circumstances of the case shall require—

May it please your honors to grant unto your oratrix not only a writ of injunction in due form of law, issuing out of and under the seal of this honorable court, to restrain the said Charles and his confederates as aforesaid, but also a writ of subpœna, to be directed to the said Charles Tufts and Emerson Wheeler, and their confederates, when discovered, commanding them and every of them, at a certain day and under a certain pain to be therein limited, personally to be and appear before your honors in this honorable court, and then and there full, true, direct, and perfect answer make to all and singular the premises, and further to stand to, perform, and abide such further order, direction, and decree therein, as to your honors shall seem meet; and your oratrix will ever pray, &c.

ANNA TUFTS.
BEN. RAND,
RAND, WARREN & FISK,
Of Counsel for the Plaintiff.

UNITED STATES OF AMERICA,
District of Massachusetts, ss:

May 7th, 1845. Then and there personally appeared the above named Anna Tufts, who made oath that the matters contained in the foregoing answer by her subscribed are true, so far as they relate to her own acts and doings, and so far as they relate to the acts and doings of other persons she believes them to be true.

Before me. CHARLES SUMNER, *Commissioner.*

Answer to supplemental bill.

Circuit court of the United States, district of Massachusetts.

ANNA TUFTS
vs.
CHARLES TUFTS and EMERSON WHEELER. } In equity.

The joint and several answer of Charles Tufts and Emerson Wheeler to the supplemental bill of Anna Tufts.

These defendants, reserving to themselves all benefit of exception to the many errors and imperfections in the said supplemental bill contained, for answer thereunto, or to so much thereof as these defendants

are advised is material for them to answer unto, these defendants, answering, say:

As to the first interrogatory, the said Charles, severally answering, saith, and the said Emerson believes it to be true, that the said notice to quit, mentioned in said supplemental bill, was first given since the filing of the said original bill; and, as to the second interrogatory, that the said Charles is proceeding at law to remove the said complainant from so much of the premises and lands, mentioned in said supplemental bill, as were not sold to said Emerson and now remain in the possession of said Anna; and, to the third interrogatory, that the said Charles has not threatened to remove the said complainant from the said premises before the said original bill of complaint was filed, any further than that he has at various times told her that it was at his option whether to let her stay on said premises or not.

And the said Charles, further severally answering, saith, and the said Emerson believes it to be true, that there never was any such agreement or understanding between said Charles and said complainant, as is alleged in said supplemental bill, in relation to the purchase of said premises, and that she has no legal, equitable, or moral right, title, or interest in the said premises; and that she has never made any alterations in said premises, except as stated in their answers to said original bill of complaint; and that said Charles never admitted any equitable interest of the said complainant in the said premises; that the said Charles did for some time allow the complainant to receive payment for sand and gravel sold from said premises; this he did as a kindness to her, and knowing it would be proper, if he ever sold the premises to her, as was talked of in the manner mentioned in his answer, but the amount is much less than is stated in said supplemental bill; that, during all the time since he purchased the premises, he has from time to time sold sand and gravel therefrom, and received the proceeds thereof, but he has never credited her with the proceeds of all the sand and gravel sold by him, but all the proceeds of sand and gravel sold from said premises in the years 1842, 1843, and 1844, he has retained entirely to himself, amounting to more than three hundred dollars in each of the years in 1842 and 1843, being a much larger amount than was ever sold before in any year; and he has always denied her right to receive any part of the proceeds of the said sand and gravel sold in 1842, 1843, and 1844; and in the winter of 1841, 1842, the said Charles told the said complainant that he should in future receive and retain all the money for sand and gravel sold from said premises for himself; and the said Charles is not aware that the said complainant has sold, or attempted to sell, any sand or gravel from said premises since he gave her that notice.

And these defendants deny all unlawful combination wherewith they are charged in said supplemental bill; without this, that there is any thing in said supplemental bill material or necessary for them to answer, and not herein well and sufficiently answered, is true to the knowledge or belief of these defendants; all which matters and things these de-

fendants are ready and willing to aver, maintain, and prove, as this honorable court shall direct, and humbly pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

CHARLES TUFTS,
EMERSON WHEELER.

UNITED STATES OF AMERICA,
District of Massachusetts:

On this 12th day of July, in the year 1845, the said Charles Tufts and Emerson personally appeared, and made solemn oath that the facts stated in the foregoing answer, so far as they are within their own knowledge respectively, are true, and all other facts therein stated they believe to be true.

Before me. CHARLES SUMNER, *Commissioner.*

Plaintiff's replication to answer to supplemental bill.

The replication of Anna Tufts, complainant, to the joint and several answer of Charles Tufts and Emerson Wheeler, defendants, to the supplemental bill of said complainant.

This repliant, saving and reserving to herself all and all manner of advantage of exception to the manifold insufficiencies of the said answers, for replication thereunto saith, that she will aver and prove her said supplemental bill to be true, certain, and sufficient in law to be answered unto, and that the said answer of the said defendants is uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by the said supplemental bill she has already prayed RAND, WARREN & FISKE,
For the Complainant.

TUFTS
vs. } In equity.
TUFTS et al.

May term, 1845.

May 17. On motion, injunction ordered upon terms on file.
Attest: J. B. ROBB, *Clerk.*

MIDDLESEX, *ss:*

Justice's court, before Abram Edwards, esq., May, 1845.

CHARLES TUFTS
vs.
ANNA TUFTS.

In the above case the defendant stipulates and agrees, that in case the suit in equity now pending in her favor, against Charles Tufts and

Emerson Wheeler, shall upon its merits be decided against her, she will then consent to be forthwith defaulted in said suit at law, and that an execution for possession shall thereon issue in favor of said Charles; and she further agrees that this agreement shall be filed in the suit in equity and made part of the record therein.

By her attorney and solicitor: A. H. FISKE.

Evidence for plaintiff.—Deposition of Ammi Cutter.

In the circuit court of the United States for the first circuit and district of Massachusetts.

Between ANNA TUFTS, plaintiff, and CHARLES TUFTS and EMERSON WHEELER, defendants. } In chancery.

Interrogatories to be administered to Ammi Cutter, a witness to be examined under a commission to issue in the above cause, on the part and behalf of the plaintiff.

1st. Please declare what is your age? And what has been the state of your health for several years past? And whether or not you have been for any and what time in a feeble or precarious state of health? And what has been your occupation or business? And whether or not you have at all times been able to attend to it? Or for any and what time have been prevented by illness from so doing?

2d. Whether or not do you know the parties, plaintiff and defendants, in the above entitled cause, or either and which of them? And how long have you known them, or either and which of them? Whether or not the said Charles Tufts is in any and what degree related to Anna Tufts, the plaintiff? Whether or not you are in any and what way and degree related to the plaintiff?

3d. Whether or not did you know Peter Tufts, now deceased, the late husband of the plaintiff, in his lifetime? And how long did you know him? Whether or not any intimacy and friendship did for any, and if any, what time, subsist between you and the said Peter, and his wife and family, during his life? Or between you and the plaintiff and her family since his death?

4th. Whether or not do you know Daniel Cummings, of the city of Boston, in the county of Suffolk, merchant, and Richard Perkins, of the same city of Boston, merchant? If yea, how long have you known them, or either and which of them? Whether or not you were ever in any and what business in copartnership with the said Cummings? If yea, how long did the partnership continue, and what share had you and he respectively therein? Whether or not you were ever in any and what business in copartnership with the said Perkins? If yea, when did the partnership commence, how long did it continue, and what share had you and he respectively therein?

5th. Whether or not, after the death of the said Peter Tufts, you

and the said Cummings ever purchased at public auction any real estate which belonged to said Peter Tufts in his lifetime? If yea, what real estate? Where was it situated? And whether or not did it include the homestead where the said Peter in his lifetime lived with his family? Whether or not did both, or one, or either of you attend at the sale? And in what name or names was it bid for and struck off at the vendue? Whether or not you and the said Cummings purchased the same solely for the profit or gain to be made thereby? Or with what view, or for what purpose, did you buy the same?

6th. Please look at the paper writings now exhibited to you, one marked A, purporting to be a deed of conveyance from Anna Tufts, as executrix, to you, of two undivided third parts of certain real estate, and the other marked B, purporting to be a deed of conveyance of one undivided third part of the same premises to the said Daniel Cummings, and declare whether or not the real estate therein described is the same which you and the said Cummings purchased at public vendue? And whether these are the conveyances to you and him? If yea, why was two-thirds thereof conveyed to you, and one-third thereof conveyed to the said Cummings? Whether or not the sums mentioned in the said deeds, when added together, being three thousand four hundred and sixty dollars, as the consideration for the premises, did constitute the real and entire consideration paid therefor? Whether or not the consideration was paid by you and said Cummings from copartnership funds, or by you and said Cummings respectively from your respective private funds? And whether or not was the price or prices paid therefor entered in the books of any copartnership between you and said Cummings? Whether or not you and the said Cummings were agreed at the time as to the purpose and object of purchasing the same? And whether or not the same was purchased by both of you with the same object and intention?

7th. Whether or not, at or about the time of the making and delivery of the deeds marked A and B, before referred to, there was any, and if any, what understanding and agreement between the said Anna Tufts, of the one part, and you and the said Cummings of the other part, relative to the said real estate? Whether or not was any promise or agreement made by you and said Cummings to or with said Anna Tufts, that the same real estate should be reconveyed to her on any, and if so, on what terms? And was any time limited for said Anna Tufts to comply with any such terms? Whether or not the said Anna Tufts was allowed or encouraged to enter or remain in possession of the said real estate after the said sale and conveyances by you and the said Cummings? And whether or not she has continued, and if yea, how long since the said conveyances, to remain in possession thereof, or to improve the same, or pay the taxes thereon, or make betterments or improvements upon the same, or lease and take the income, rents, or profits thereof? If she has remained in possession, or improved or made betterments upon the premises, or took the rents, incomes, and profits thereof, whether or not it has been under any such understanding and

ageeement, as is hereinbefore inquired after, that she might on certain terms become the owner thereof? And if yea, state fully and particularly the whole agreement relative thereto, with the time, place, and circumstances attending the same.

8th. Whether or not the said Richard Perkins succeeded the said Cummings as a copartner with you? If yea, when did it take place? Please look at the paper wri ing now exhibited to you, marked C, purporting to be a deed of conveyance from the said Cummings to the said Perkins of one undivided third part of the real estate before mentioned; and declare, if you know, what was the occasion and purpose of making the same conveyance? And whether the said Cummings, at or about the time when the same bears date, or when, ceased to be a copartner with you? And whether or not the said Perkins thereupon immediately, or when, if ever, became a copartner with you? And whether or not, after the same conveyance, and while the said Perkins held the same, the said Anna Tufts continued to remain in possession of the premises, or to improve the same, or make improvements thereon, or to take or receive the rents, issues, or profits thereof? If yea, was it under any, and if any, was it the same understanding and agreement as hereinbefore inquired after, or some new and different one; or under what understanding and agreement, or with what expectation? And, if with the expectation of becoming the owner thereof on any terms, upon what terms? And whether or not was such expectation known to, and countenanced or encouraged by, you and the said Perkins?

9th. Please look at the paper writing now exhibited to you, marked D, purporting to be a deed of conveyance from the said Perkins to you of one undivided third part of the real estate before mentioned, and declare on what occasion, and for what purpose, the same was made? Whether or not the said Perkins paid anything, and if anything, what, to the said Cummings, for the conveyance of the one-third of the premises from said Cummings to him? Whether or not you paid the said Perkins anything, and if anything, what, when the conveyance from him to you was made? Whether or not any, and if any, what entry was made in your books of both or either of these transactions? Whether or not the said Anna Tufts continued to remain in possession of, or to improve the premises, or to pay taxes therefor, or to make repairs or betterments thereon, or to let and take and receive the rents, issues, income, and profits thereof, for any and what time after the whole of the premises were conveyed to and held by you? If yea, was it under any, and if any, what understanding and agreement? Or with any and what expectation countenanced or encouraged by you? Whether or not was it the same agreement and expectation hereinbefore inquired after, or some new or different agreement?

10th. Whether or not, while you held the whole premises, any persons or person applied to purchase any portion thereof? If yea, whether or not did you undertake to deal with them concerning the same without any reference to the said Anna Tufts, or did you refer such persons

or person to her for any and what purpose? Whether or not you did or would have sold any portion of the premises without first obtaining her consent? Whether or not you did obtain her consent to sell any portion, and, if so, what portion of the premises; and for what consideration; and who received the price thereof; and whether or not was it, and, if so, how, entered and credited or charged in your books? Please ascertain and state the same particularly, as well as the entries heretofore inquired after.

11th. Whether or not at any time after you held the whole premises you requested or intimated to said Anna Tufts that it would be well for her to find some other person to take a conveyance of the premises from you? If yea, when did this take place; on what occasion; or for what reason or purposes did you make any such request or intimation; and what did you say to her relative thereto; and upon what terms, if any, and for what purpose, did you propose to make the conveyance? Whether or not did you feel at liberty, or should you have conveyed the premises to any one offering the value thereof, or to hold otherwise than you held the same, without the consent of the said Anna Tufts? Whether or not the said Anna Tufts, in consequence of any intimation or request from you or otherwise, did procure any person, and, if so, who, to take from you a conveyance of the premises? Whether or not on or about the first of February, in the year of our Lord eighteen hundred and thirty-four, or at any other and what time, you did convey the real estate aforesaid to said Charles Tufts? If you made such conveyance, please declare on what occasion, and for what reason and purpose it was made; and whether it was at the request of the said Anna Tufts, or with her consent, or how otherwise; and whether or not you received or agreed to receive anything more therefor than the sum for which it was struck off as aforesaid, and interest thereon, after deducting all payments, if any had been made by said Anna Tufts; and what did you receive, or agree to receive, for the said conveyance to said Charles Tufts, and has the same been paid or secured, and, if so, how, and when, and by whom? Whether or not, at the time of the conveyance to the said Charles Tufts, it was understood and agreed by you and said Charles and Anna that the same were to be held by the said Charles subject to any terms or agreement with said Anna Tufts? And, if yea, subject to what terms or agreement? And whether it was understood and agreed that the said Anna Tufts might or should on any, and, if any, what terms, receive a conveyance of or become entitled to the premises? Please to state fully and particularly what was the understanding and agreement, if there were any, and whether or not the said Charles Tufts was aware thereof and a party thereto, with all the circumstances attending the transaction.

12th. Whether or not, after the conveyance by you to the said Charles Tufts, the said Anna continued in possession of the premises, and to occupy and improve the same, and take and receive the rents, income, and profits thereof? Please ascertain and set forth, by refreshing your recollection from your entries in your books or otherwise, if any and what

allowances were made to the said Charles at the time of the conveyance to him by you for any, and, if any, what payments of interest or principal, or on any and what account theretofore made to you by said Anna Tufts. And state particularly how the sum or sums constituting the consideration for the conveyances to said Charles Tufts were made up; and whether or not the said Charles, at the time of or before the said conveyances to him, understood that upon or subject to any, and, if any, what terms or agreement you held the premises for the benefit of the said Anna Tufts. Whether or not did he know that the said Anna had been in possession of or improved the premises, or paid the taxes, or received the rents or profits and income thereof, and made improvements, with any expectation on any and what terms of becoming entitled to the estate aforesaid? Whether or not was it understood or intended that the rights or interest of the said Anna should be in any, and, if any, what, way prejudiced by the conveyances by you to said Charles, or were they to remain as before; or what was understood and agreed between the parties relative to this matter? Please to set forth fully and particularly the same with all the circumstances.

13th. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

A. H. FISKE, *Solicitor*.

Cross interrogatories on behalf of the defendants to Ammi Cutter.

(The defendants object to so much of the 10th interrogatory to said Cutter, proposed by the plaintiff, as inquires whether he would have sold any portion of the premises without obtaining her consent; and to so much of the 11th interrogatory as inquires whether he felt at liberty, or should have conveyed the premises, without the consent of said Anna Tufts, as asking for mere matters of opinion.)

1st. If you say that, at or about the time of the making and delivery of the deeds marked A and B, there was any understanding or agreement between the said Anna Tufts on the one part, and you and said Cummings on the other part, in regard to a conveyance of the premises described in said deeds to her, please say when said understanding or agreement was made or arose, whether it was before or after you purchased the said premises at auction, and before or after the said deeds were delivered; whether it was verbal or in writing.

2d. If you have said there was any such understanding or agreement, please to say whether there was any, and, if any, what consideration for such understanding or agreement to reconvey to said Anna Tufts.

3d. Did said Anna Tufts, in writing, or verbally, ever agree to pay any sum for the repurchase of said premises from you and said Cummings? If yea, within what time, and in what manner, did she agree to make the payment; or was it left optional with her whether to purchase the said premises or not?

4th. Was not the only agreement made by you and said Cummings with said Anna Tufts as follows, to wit, that if she paid the interest on the purchase money of said premises to you and said Cummings regularly every quarter, and paid the amount of the principal at any time within ten years from the time you and said Cummings purchased the said premises, she might have the privilege of buying them during those ten years? Did she pay the interest regularly, or at all, to you and said Cummings?

5th. What would be a fair annual rent for the said premises since you and said Cummings purchased the same?

6th. If you say said Anna Tufts has been in possession of said premises, and made betterments or improvements thereon, please say what betterments, and what improvements, she has made, and whether she herself has made and paid for any such betterments or improvements; or whether Charles Tufts, or any other person, has made or paid for the same; and whether you know who has paid for the same; and how do you know that said Anna Tufts has made any betterments or improvements on said premises.

7th. If you say that when the said Charles Tufts purchased the said premises of you, he was to hold them subject to any terms or agreement with said Anna, that she should have the right to repurchase the same, please to say whether said Anna did agree, in writing or verbally, or in what way, to pay the said Charles Tufts the sum he paid you for the said premises and interest thereon. Or whether it was not left entirely optional with said Anna Tufts to repurchase the said premises of said Charles Tufts or not. And was not the time during which she was to have the privilege of repurchasing the said premises of said Charles Tufts limited to five years from the time when said Charles Tufts first agreed to purchase the said premises of you, or from what other time? And was it not expressly understood between said Charles Tufts and said Anna Tufts, that she was not to have the privilege of purchasing the said premises of him, unless she paid the interest on the sum he paid you regularly at the end of every quarter?

8th. When did said Charles Tufts first agree to purchase said premises of you? Was it not some time in the year 1831? Did not said Charles Tufts pay you one thousand dollars, in part payment for the said premises, in the month of January, 1832?

9th. Did not said Anna Tufts give as a reason why she hoped to be able to purchase the said premises of said Charles Tufts, that she had a lawsuit in New York, from which she expected to get some money, and wished for the privilege of buying the estate if she was successful?

10th. Did you not at some time, and when, advertise the said premises for sale in one or more newspapers? When did you so advertise them, and where you so advertised them? Had you a right to sell, or were you under any obligation, and if any, what, to said Anna Tufts, in regard to the same?

11th. Did said Anna Tufts ever, while you owned the said premi-

ses, claim the right to purchase the same of you, or did she only ask it as a favor or privilege?

12th. Have you not, within two or three months, at one or more times, told said Charles Tufts that said Anna Tufts had no legal claim to purchase the premises?

S. E. SEWALL,
Attorney of C. Tufts and E. Wheeler.

A true copy.
Attest: FRANCIS BASSETT, *Clerk.*

Additional cross interrogatories.

13th. What is the state of your health? Have you ever, and if ever when, had one or more paralytic attacks? If yea, has your memory since been as distinct and clear in regard to past transactions as it was before? Is your memory as good as it was a few years ago or not?

14th. Have you not recently, within a few months past, told said Charles Tufts that from the failure of your memory you were no better able than a child to testify in this case, or something to that effect?

15th. Have you not recently, within a few months past, told Elbridge Tufts that his mother, the said Anna Tufts, had no claim on said Charles Tufts, or something of that kind?

S. E. SEWALL,
Attorney of defendants.

April 21, 1845.
A true copy.
Attest: FRANCIS BASSETT, *Clerk.*

Circuit court of the United States, for the first circuit and district of Massachusetts:

ANNA TUFTS, plaintiff, vs. CHARLES TUFTS and al. } In equity.

Answers of Ammi Cutter, to the interrogatories hereto annexed, on the part of the plaintiff:

1st. To the first interrogatory he says: I am sixty-seven years old. I have been very feeble for ten years past, and in a precarious state of health. I have been an oil merchant. I have not been able, at all times, to attend to it. I should think that out of the last ten years I had been prevented at least one year in all, from attending to business, by illness.

2d. To the second interrogatory he says: I know the parties, plaintiff and defendant, in this cause, and have always known Anna Tufts. I have known Charles Tufts about fifteen years. He is the son of her husband by a former wife. Mrs. Anna Tufts is my first cousin. I do not know Emerson Wheeler.

3d. To the third interrogatory he says: I knew the said Peter Tufts, and knew him ever since his marriage with Mrs. Tufts, the exact date

of which I do not recollect. I was on intimate and friendly terms with the said Peter, and his wife and family, during his life, and with the plaintiff and her family since his death.

4th. To the fourth interrogatory he says: I know the said Daniel Cummings and the said Richard Perkins. I have known the said Cummings about twenty years, and the said Perkins about fifteen years. I was once in copartnership with the said Cummings in the oil business. The copartnership continued about four years. I had two thirds and he one third of the business. I was also a copartner with the said Perkins in the oil business. Our copartnership commenced about fourteen years ago, and lasted about ten years. I had two-thirds of the business and he one-third.

5th. To the fifth interrogatory he says: After the death of said Peter Tufts, the said Cummings and I did purchase said real estate, at public auction, which belonged to the said Tufts in his lifetime. It consisted of a house and land in Magazine street, in Cambridge, and did include the homestead where the said Peter Tufts lived, in his lifetime, with his family; Mr. Cummings and myself did both attend the sale. The estate was bid off in the name of Cutter and Cummings. We did not purchase the estate for any profit or gain, but from friendly feelings towards Mrs. Tufts, and for her benefit and accommodation, and at her request.

6th. To the sixth interrogatory he says: The paper writing marked A is a conveyance from Anna Tufts, as executrix, to me of two-thirds of the said real estate, and the paper writing marked B is a conveyance of one-third of the said estate, from her to Daniel Cummings. The real estate described in these deeds is the same which the said Cummings and I purchased at public vendue, and these are the conveyances to me and him. Two-thirds were conveyed to me and one-third to him, because it was a partnership transaction, and we were interested in the partnership in these proportions. The sums mentioned in the said deeds, added together, make three thousand four hundred and sixty dollars, constituted the real and entire consideration paid for the said estate. This was paid by Cummings and myself from the copartnership funds. We were agreed, at the time, as to the object and purpose of the purchase, and the estate was purchased by both of us with the same object and intention. The prices paid therefor were entered in the copartnership books of our firm.

7th. To the seventh interrogatory he says: About the time of the making and delivery of the said deeds, there was an understanding and agreement between said Anna Tufts of the one part, and Cummings and myself of the other, relative to said real estate. The agreement was that she should have a deed of the estate whenever she made us whole, that is, paid us the price of the estate and interest, so that we should lose nothing. No time was limited to her to comply with these terms. She was allowed to remain in possession of the said real estate after the conveyance to Cummings and me, and she has ever since, to the present time, I believe, continued to be in possession of the said

estate, paying the taxes thereon, and receiving the rent, income, and profits thereon. As to betterments and improvements, I cannot speak of my own knowledge. She has remained in possession upon the agreement aforesaid that she should have a conveyance of the estate whenever she made us whole. This was the whole agreement. I cannot state the exact time when the agreement was made, but it was just before the sale. Mrs. Tufts came to our store and asked me to buy the estate, and hold it for her use and benefit, as she wished to live upon it. I suggested the plan to Mr. Cummings, and he agreed to it, it being, as he said, a labor of love. We then told Mrs. Tufts that we would buy the estate, and she might live on it, and have a deed of it whenever she would make us whole. The agreement was a verbal one.

8th. To the eighth interrogatory he says: The said Richard Perkins did succeed the said Cummings as a copartner with me. This took place in January, 1831. The paper writing marked C is a conveyance from the said Cummings to the said Perkins of one undivided third part of the real estate before mentioned. Mr. Cummings, at or about the time when the deed bears date, ceased to be a copartner with me, and Mr. Perkins came into the firm as his successor. Mr. Cummings conveyed an undivided third part of the estate to Mr. Perkins, as being part of the copartnership property; Mr. Perkins taking the place of Mr. Cummings in the concern, and having the same interest therein. After this conveyance to Mr. Perkins, and while he held the same, the said Anna Tufts continued to remain in possession of the premises, and to receive the rents and profits thereof. This was under the same understanding and agreement as hereinbefore stated, that she should have a deed of the estate on repaying us the price paid therefor and interest. She expected to become the owner thereof on these terms, and this expectation was known to and countenanced by the said Perkins and myself.

9th. To the ninth interrogatory he says: The paper writing marked D is a deed of conveyance from the said Perkins to me of one undivided third part of the real estate before mentioned. Mr. Perkins transferred this to me, because he wished to employ the money in some more profitable manner, as he was receiving only simple interest upon it. The said Perkins bought out the said Cummings and paid him for his interest in the partnership property, including this estate. I do not know how much Mr. Perkins paid him. No money passed from my hands to Mr. Perkins, but on our private books the price of his one third appears as a charge to me, paid for out of the copartnership funds. The said Anna Tufts continued to remain in possession of the premises, and to act in all respects as the owner thereof, after the whole of the premises were conveyed to and held by me, and has ever since continued to do so. She held them under the understanding and agreement before referred to, which was, that she should have a deed of the premises whenever she paid me the price thereof and interest, so that I should be made whole. She held the estate upon this expectation, which was

countenanced by me. I believe there is no entry in any of my books of the transfer from Cummings to Perkins. I will annex to my answers copies of all the entries in my books relating to this estate.

10th. To the tenth interrogatory he says: While I held the whole of the said estate, I do not remember that any person applied to me to purchase any part of the said estate. If any person had applied, I should have referred him to Mrs. Tufts, and taken no steps without her knowledge and consent. While Mr. Cummings and I held the estate, a small portion of it was conveyed to Low and Kinsley, with the knowledge of Mrs. Tufts, and at her request. The price was one hundred dollars, and was probably paid to us, as it appears credited to her on our books. It was only one acre.

11th. To the eleventh interrogatory he says: About a year after Mr. Perkins conveyed to me, I think I told Mrs. Tufts that she had better let Charles Tufts take the estate and manage it for her. The reason of my making this proposal was, that my business was large and my health not good, and I am pretty sure that I told her this. I don't remember any thing more that was said. I proposed to make the conveyance, that Charles might hold the estate for her benefit, and on the same terms as I had done. I should not have conveyed the same to any one offering the value thereof, or to hold otherwise than I held it, without the consent of the said Anna Tufts. She did consent, in consequence of what I said to her, that Charles Tufts should take a conveyance of the estate from me. The agreement was made verbally, in the early part of the year 1832, but I cannot tell the date of the conveyance to him. The conveyance was made to him to hold for her benefit, with her knowledge and consent, and [at] her request; and because I was two ill and too busy to attend to it. I agreed to receive what had been originally paid for the estate, and the balance of interest and charges, and that was what I did receive. He paid me one thousand dollars, and the balance was paid by his agreement to take up the mortgages and incumbrances upon the estate. I don't remember when he paid the thousand dollars, but it was shortly after the agreement. The amount of the consideration, I do not exactly remember, but it was not far from four thousand one hundred and ninety dollars, being just what the estate owed at the time. At the time of the conveyance to the said Charles Tufts, it was understood and agreed between me and the said Charles and Anna, that the same was to be held by the said Charles, subject to the same terms and agreements as those on which I had held it; that she should have a conveyance of the premises on paying Charles what he had paid and interest. He was well aware thereof. The consideration expressed in the deed was more than what was due to me, because it included charges for repairs and improvements, part of which Charles had paid for, and Mrs. Tufts wanted the deed to be so drawn that he should be reimbursed all he paid, and then he was bound to give her a deed. Charles paid me some small sums of money from time to time, besides the said thousand dollars.

12th. To the twelfth interrogatory he says: The said Anna Tufts

did continue in possession of the premises, and acted as owner thereof, after the conveyance to Charles Tufts. The account hereto annexed, marked E, shews the debits and credits of the said estate on my books up to the time of the sale to Charles, and this account shews how the consideration was made up. The said Charles Tufts, at and before the conveyance to him, understood that I held the estate for the benefit of the said Anna Tufts, and subject to an agreement to convey to her whenever she would make me whole, and he knew that she had been in possession of the premises, paying the taxes and receiving the income thereof, in the expectation of becoming entitled to the estate upon the above terms. And it was understood that her rights were not to be prejudiced by the conveyance from me to Charles, but they were to remain as before.

13th. To the thirteenth interrogatory he says: I have nothing further to say, except to state that the amount due to me at the time of the conveyance to Charles was about thirty-five hundred dollars. He paid me one thousand dollars in cash. He agreed to take up a mortgage of fifteen hundred dollars, and another of five hundred dollars. These made three thousand dollars. The balance of four or five hundred dollars was paid at various times in cash or by goods. This sum was merely the balance due me on account, as I never charged anything for my services.

Answers to cross interrogatories.

1st. To the first cross interrogatory he says: The said agreement or understanding was made before the said premises were purchased at auction, and before the delivery of the deeds, and was a verbal agreement.

2d. To the second cross interrogatory he says: There was no consideration for this agreement or understanding; he acted simply from a desire to gratify Mrs. Tufts.

3d. To the third cross interrogatory he says: There was no such agreement on the part of Mrs. Tufts, verbally or in writing. She did not become bound to make the payment. It was left optional with her to purchase the said premises or not.

4th. To the fourth cross interrogatory he says: This was not the agreement made between us and Mrs. Tufts. There was no restriction as to time in our agreement. She was at liberty at any time to make the payments and receive the deed. She did pay the interest regularly to the said Cummings and myself.

5th. To the fifth cross interrogatory he says: I cannot say what would be the fair annual rent for the said premises.

6th. To the sixth cross interrogatory he says: I do not know anything as to the said betterments or improvements, of my own knowledge. I have understood that some had been made at her expense, and some at the expense of Charles.

7th. To the seventh cross interrogatory he says: I do not know of my own knowledge as to the agreement between the said Anna Tufts and the said Charles Tufts, or any particulars thereof, but I always understood that he was to hold the estate on the same understanding and

agreement as I had done, and as is hereinbefore stated. This was the understanding at the time he took it.

8th. To the eighth cross interrogatory he says: I do not remember when the said Charles Tufts first agreed to purchase the said premises of me, but it was early in 1832. He paid me a thousand dollars soon after.

9th. To the ninth cross interrogatory he says: I think that something was said by the said Anna Tufts about a suit in New York, but I have no distinct recollection upon the subject.

10th. To the tenth cross interrogatory he says: I believe that Mr. Perkins advertised the said premises for sale, but I am not positive. I do not remember advertising them myself, but if I did, it was with the consent of the said Anna Tufts.

11th. To the eleventh cross interrogatory he says: She always claimed the right to purchase the premises of me, while I held them.

12th. To the twelfth cross interrogatory he says: I have no recollection of ever having told Charles Tufts that Anna Tufts had no legal claim to purchase the premises.

13th. To the thirteenth cross interrogatory he says: I have been in a feeble state of health for some time past. I have not, to my knowledge, had any attack of paralysis. My memory has been impaired by attacks of illness.

14th. To the fourteenth cross interrogatory he says: I told the said Charles Tufts that I had a bad memory, but I do not remember telling him that from the failure of my memory I was no better able than a child to testify in this case.

15th. To the fifteenth cross interrogatory he says: I have never told the said E. Tufts anything of the kind, to my recollection.

AMMI CUTTER.

UNITED STATES OF AMERICA,
District of Massachusetts:

City of Boston. On the twenty-eighth day of April, 1845, the aforesaid deponent, Ammi Cutter, appeared personally before me, and being by me carefully sworn to tell the truth, the whole truth, and nothing but the truth, he gave the foregoing deposition in reply to the interrogatories hereto annexed, and subscribed the same, which were reduced to writing by me.

The foregoing deposition was taken by virtue of the commission hereto annexed, and to be used in the cause therein mentioned, and all the directions contained in the said commission were carefully observed by me in the execution thereof.

GEORGE S. HILLARD, *Commissioner.*

Fees of the commissioner - - - -	$10 00
Fees of the deponent - - - -	1 25

1842.

Estate in Cambridge.

1828.	*Dr.*		
Sept. 27.	For am't lands, &c., purchased at auction		$3,460 00
"	" cash paid I. Fisk		8 00
"	" premium and insurance $5 55. Recording deeds $1 75		7 30
Dec. 31.			$3,475 30
1829.	For interest to January 1		54 44
Jan. 27.	" cash paid L. Beals for papering, &c.		4 62
July 11.	" " Greggs and Hollis for paints		63 77
" 15.	" William Marster's bill, painting		51 08
Dec. 22.	" cash paid assessment Middlesex Mutual Insurance Office		4 50
" 31.	" interest due January 1, 1830		219 22
			$3,872 93
1828.	*Cr.*		
Dec. 31.	By 1 qr. rent, due 27th inst.	$54 68	
1829.			
April 6.	" " "	54 68	
July 18.	" " "	54 68	
Oct. 3.	" " "	54 68	
Dec. 31.	" " "	54 68	
	By balance of new account	3,599 53	
			3,872 93
1830.	*Dr.*		
Jan. 1.	For balance, $3,599 53. Interest, $196 84		3,796 37
1830.	*Cr.*		
April 14.	By 1 qr. rent, due 27th ultimo	54 68	
June 30.	" " "	54 68	
July 20.	By land sold Low & Kingsly	160 00	
Oct. 22.	" 1 qr. rent, due 26th ultimo	54 68	
Dec. 28.	" " " "	54 68	
	Balance of new account	3,477 65	
			3,796 37
1831.	*Dr.*		
Jan. 1.	For balance, $3,477 65. Interest, $195 53		3,673 18
1831.	*Cr.*		
April 5.	By 1 qr. rent, due 28th ultimo	$54 68	
June 27.	" " "	54 68	
Sept. 27.	" " "	54 68	
Dec. 27.	" " "	54 68	
	By balance of new account	3,454 46	
			$3,673 18

1832.		*Dr.*			
Jan. 1.	For balance -	-	-	-	$3,454 46
" 19.	Sundries -	-	-	-	735 64
1832.		*Cr.*			4,190 10
Jan. 19.	By note to C. Tufts	-	-	$46 83	
	" Ammi Cutter	-	-	2,762 18	
	" R. Perkins	-	-	1,381 09	
					$4,190 10

Deed—Tufts to Cutter.

(A.)

To all people to whom these presents shall come:

Whereas Peter Tufts, jr., late of Cambridge, in the county of Middlesex, esquire, deceased, in and by his last will and testament, which has been duly proved and established, authorized and empowered Anna Tufts, the executrix of said last will and testament, to make sale of so much of the real estate of the said Peter Tufts, jr., as should be necessary to pay all his just debts, legacies, and incidental charges in settling his estate, either at public or private sale, as she might think best; therefore, know ye that I, the said Anna Tufts, as well by virtue of the power and authority to me given as aforesaid, as in consideration of the sum of two thousand three hundred and six dollars and sixty-seven cents, paid by Ammi Cutter, of Boston, in the county of Suffolk, merchant, the receipt whereof I do hereby acknowledge, have given, granted, bargained, and sold, and do hereby, in said capacity, grant, bargain, sell, convey, and confirm unto him, the said Ammi Cutter, and his heirs and assigns forever, two undivided third parts of a certain piece or parcel of land, situate in said Cambridge, bounded as follows, to wit: westerly on the road leading from Cambridgeport, so called, to the Powder magazine in said Cambridge; southerly on land of Jonas Peirce; easterly as the fence now stands, on land belonging to the heirs of Francis Dana, esq., deceased, containing ten acres and a quarter, be the same more or less, with all the privileges and appurtenances thereto belonging, reserving the right to Jonas Peirce to pass and repass to and from his marsh to carry off hay over the southerly end of the above described premises; also two undivided third parts of a certain other piece or parcel of land, lying and situated in said Cambridge, bounded as follows, viz: southeasterly on the road leading to the Powder magazine; easterly on land of Thomas Short and others; northerly on land formerly of Jacob Wyeth and others; northwesterly, westerly, and southwesterly on a proprietors' way or salt marsh, belonging to Ephraim Cutter, heirs of Joseph Adams, and sundry other persons, till it comes to the first mentioned road leading to the Powder magazine, or however otherwise the same may be bounded, or reputed to be bounded, with all the privileges and appurtenances to the same belonging, containing twelve acres, be the same more or less; also two undivided third parts of a certain tract or parcel of salt marsh land, situated in said

Cambridge, containing four acres and sixteen polls, be the same more or less, and bounded as follows, to wit: northwesterly on land of Ebenezer Hall; northeasterly on land formerly belonging to Francis Dana, esq., now deceased; southeasterly on land of Leonard Stone; and southwesterly on Charles river, together with all the privileges and appurtenances thereunto belonging; also two undivided third parts of another tract or parcel of salt marsh land, situated in said Cambridge, southerly of Captain's island, (so called,) belonging to the Commonwealth of Massachusetts, and bounded southwesterly by Charles river; northwesterly by marsh of Samuel Tufts; northeasterly by said Captain's island; and southeasterly by land of said Commonwealth of Massachusetts, or wharf to the Powder magazine, containing about one-third of an acre, be the same more or less; also two undivided third parts of one other tract or parcel of salt marsh land, bounded southeasterly on Charles river; northwesterly on said wharf and land of said commonwealth; northwesterly on said Captain's island, so called; and southeasterly on other land, formerly of Peter Tufts, jr., deceased, to said Charles river, containing one acre, be the same more or less, with all the privileges and appurtenances to the same belonging.

To have and to hold the aforegranted premises, with all the privileges and appurtenances to the same belonging, to him, the said Ammi Cutter, and his heirs and assigns forever; and I do hereby, in the capacity aforesaid, covenant with the said Ammi Cutter, and his heirs and assigns, that the said Peter Tufts, jr., died seized of the premises. That it was necessary the same should be sold for the purpose of paying the just debts of said deceased. That, previous to the intended sale, I gave public notice thereof by posting notifications of said sale thirty days previous thereto, in Cambridge, the shire town of the county of Middlesex, and the town where the deceased last dwelt, and where the aforesaid premises are situated, and also in Brighton and Charleston, two adjoining towns to said Cambridge, and that the said Ammi Cutter and one Daniel Cummings offered most for said premises, and the same were thereupon struck off to them as follows, to wit, two-thirds thereof to the said Ammi Cutter, and one-third thereof to the said Daniel Cummings, at a public vendue, held on the premises, on the 10th day of March, in the year of our Lord one thousand eight hundred and twenty-eight. And I do further, in the capacity aforesaid, covenant to and with the said Ammi Cutter, his heirs and assigns, that the premises are free of all incumbrances, and that I will warrant and defend the same to the said Ammi Cutter, and his heirs and assigns, against the lawful claims and demands of all persons.

In witness whereof I, the said Anna Tufts, executrix, have hereunto set my hand and seal, this twenty-second day of September, in the year of our Lord one thousand eight hundred and twenty-eight.

ANNA TUFTS.

Signed, sealed, and delivered in presence of us—

WM. WHITNEY,

ISAAC FISKE.

MIDDLESEX, *ss:*

September 27, A. D. 1828. Personally appeared Anna Tufts, above named, and acknowledged the foregoing instrument to be her free act and deed.

Before me, ISAAC FISKE,
Justice of the Peace.

MIDDLESEX, *ss:*

September 27, 1828. Received and recorded in the registry of deeds, book 284, page 11.

Attest: WM. F. STONE, *Reg.*

Paper writing, marked A, referred to in the execution of a commission to take the depositions of witnesses in the case of Anna Tufts vs. Charles Tufts & al.

GEORGE. S. HILLARD, *Commissioner.*

Deed—Tufts to Cummings.

(B.)

To all people to whom these presents shall come:

Whereas Peter Tufts, jr., late of Cambridge, in the county of Middlesex, esq., deceased, in and by his last will and testament, which has been duly proved and established, authorized and empowered Anna Tufts, the executrix of said last will and testament, to make sale of so much of the real estate of the said Peter Tufts, jr., as should be necessary to pay all his just debts, legacies, and incidental charges in settling his estate, either at public or private sale, as she might think best, therefore know ye, that I, the said Anna Tufts, as well by virtue of the power and authority to me given as aforesaid, as in consideration of the sum of eleven hundred and fifty-three dollars and thirty-three cents, paid by Daniel Cummings, of Boston, in the county of Suffolk, merchant, the receipt whereof I do hereby acknowledge, have given, granted, bargained, and sold, and do hereby, in said capacity, grant, bargain, sell, convey, and confirm unto him, the said Daniel Cummings, his heirs and assigns forever, one undivided third part of a certain piece or parcel of land, situated in said Cambridge, bounded as follows, to wit: westerly on the road leading from Cambridgeport, so called, to the Powder magazine, in said Cambridge; southerly on land of Jonas Peirce; easterly as the fence now stands, on land belonging to the heirs of Francis Dana, esq., deceased, containing ten acres and a quarter, be the same more or less, with all the privileges and appurtenances thereto belonging, reserving the right to Jonas Peirce to pass and repass to and from his marsh, to carry off hay over the southerly end of the above described premises; also one undivided third part of a certain other piece or parcel of land, lying and situate in said Cambridge, bounded as follows, viz: southeasterly on the road leading to the Powder magazine; easterly on land of Thomas Short and others; northerly on land formerly of Jacob Wyeth and others; northwesterly, westerly;

and southwesterly on a proprietor's way or salt marsh, belonging to Ephraim Cutter, the heirs of Joseph Adams, and sundry other persons, till it comes to the first mentioned road, leading to the Powder magazine, or however otherwise the same may be bounded, or reputed to be bounded, with all the privileges and appurtenances to the same belonging, containing twelve acres, be the same more or less; also one undivided third part of a certain tract or parcel of salt marsh land, situated in said Cambridge, containing four acres and sixteen polls, be the same more or less, and bounded as follows, to wit: northwesterly on land of Ebenezer Hall; northeasterly on land formerly belonging to Francis Dana, esq., now deceased; southeasterly on land of Leonard Stone; and southwesterly on Charles river, together with all the privileges and appurtenances thereunto belonging; also one undivided third part of another tract or parcel of salt marsh land, situated in said Cambridge, southerly of Captain's island, so called, belonging to the Commonwealth of Massachusetts, and bounded southwesterly by Charles river; northwesterly by marsh of Samuel Tufts; northeasterly by said Captain's island; and southeasterly by land of said Commonwealth of Massachusetts, or wharf to the Powder magazine, containing one third of an acre, be the same more or less; also one undivided third part of one other tract or parcel of salt marsh land, bounded southwesterly on Charles river; northeasterly on said wharf and land of said commonwealth; northwesterly on said Captain's island, so called; and southeasterly on other land, formerly of Peter Tufts, jr., deceased, to said Charles river, containing one acre, be the same more or less, with all the privileges and appurtenances to the same belonging.

To have and to hold the aforegranted premises, with all the privileges and appurtenances to the same belonging, to him, the said Daniel Cummings, and his heirs and assigns, forever. And I do hereby, in the capacity aforesaid, covenant with the said Daniel Cummings, and his heirs and assigns, that the said Peter Tufts, jr., died seized of the premises; that it was necessary the same should be sold for the purpose of paying the just debts of said deceased; that, previous to the intended sale, I gave public notice thereof by posting notifications of said sale thirty days previous thereto, in Cambridge, the shire town of the county of Middlesex, and the town where the deceased last dwelt, and where the aforesaid premises are situated, and also in Brighton and Charleston, two towns adjoining said Cambridge; and that the said Daniel Cummings and one Ammi Cutter offered most for said premises, and the same were thereupon struck off to them as follows, to wit, one third thereof to the said Daniel Cummings, and two thirds thereof to the said Ammi Cutter, at a public vendue, held on the premises, on the 10th day of March, in the year of our Lord one thousand eight hundred and twenty-eight. And I do further, in the capacity aforesaid, covenant to and with the said Daniel Cummings, his heirs and assigns, that the premises are free of all incumbrances, and that I will warrant and defend the same to the said Daniel Cummings, and

his heirs and assigns, against the lawful claims and demands of all persons.

In witness whereof I, the said Anna Tufts, executrix, have hereunto set my hand and seal, this twenty-second day of September, in the year of our Lord one thousand eight hundred and twenty-eight.

ANNA TUFTS. [L. S.]

Signed, sealed, and delivered, in presence of—
WM. WHITNEY,
ISAAC FISKE.

MIDDLESEX, *ss:*

Sept. 27, A. D. 1828. Personally appeared Anna Tufts, and acknowledged the above instrument by her subscribed to be her free act and deed.

Before me. ISAAC FISKE,
Justice of the Peace.

MIDDLESEX, *ss:*

Sept. 27, 1828. Received and recorded in the registry of deeds, book 284, page 14.

Attest: WM. F. STONE, *Reg.*

Paper writing marked B, referred to in the execution of a commission to take the depositions of witnesses in the case of Anna Tufts vs. Charles Tufts et al.

GEORGE S. HILLARD,
Commissioner.

Deed—Cummings to Perkins.

(C.)

Know all men by these presents, that I, Daniel Cummings, of Boston, in the county of Suffolk, and Commonwealth of Massachusetts, merchant, in consideration of the sum of eleven hundred dollars, paid by Richard Perkins, of the same Boston, the receipt whereof I do hereby acknowledge, do hereby give, grant, sell, and convey unto the said Richard Perkins, his heirs and assigns forever, one undivided third part of a certain piece or parcel of land, situated in Cambridge, county of Middlesex, and commonwealth aforesaid, and bounded, viz: westerly on the road leading from Cambridgeport, so called, to the Powder magazine, in said Cambridge; southerly on land of Jonas Peirce; easterly as the fence now stands, on land belonging to the heirs of Francis Dana, esq., deceased; northerly on land belonging to Elias Kingsley and others; containing nine acres and one quarter, be the same more or less, with all the privileges and appurtenances thereto belonging; reserving the right to Jonas Peirce to pass and repass to and from his marsh, to carry off hay, over the southerly end of the above described premises. Also, one undivided third part of a certain other piece or parcel of land, lying and situate in said Cambridge, and bounded, viz: southeasterly on the road leading to the Powder magazine; easterly on

land of Thomas Short and others; northerly on land formerly of Jacob Wyeth and others; northwesterly, westerly, and southwesterly on a proprietors' way or saltmarsh, belonging to Ephraim Cutter, the heirs of Joseph Adams, and sundry other persons, till it comes to the first-mentioned road leading to the Powder magazine, or however otherwise the same may be bounded or reputed to be bounded; with all the privileges and appurtenances to the same belonging, containing twelve acres, be the same more or less. Also, one undivided third part of a certain tract or parcel of salt marsh land, situated in said Cambridge, containing four acres and sixteen polls, be the same more or less, and bounded, viz: northwesterly on land of Ebenezer Hall; northeasterly on land formerly belonging to Francis Dana, esq., deceased; southeasterly on land of Leonard Stone; and southwesterly on Charles river, together with all the privileges and appurtenances thereto belonging. Also, one undivided third part of another tract or parcel of salt marsh land, situated in said Cambridge, southerly of Captain's island, so called, belonging to the Commonwealth of Massachusetts, and bounded southwesterly by Charles river; northwesterly by marsh of Samuel Tufts; northeasterly by said Captain's island; and southeasterly by land of said Commonwealth of Massachusetts, or wharf to the Powder magazine; containing one third of an acre, be the same more or less. Also, one undivided third part of one other tract or parcel of salt marsh land, bounded southwesterly on Charles river; northwesterly on said wharf and land of said commonwealth; northeasterly on said Captain's island, so called; and southeasterly on other land formerly of Peter Tufts, jr., deceased, to said Charles river, containing one acre, be the same more or less, with all the privileges and appurtenances to the same belonging.

To have and to hold the afore granted premises to the said Richard Perkins, his heirs and assigns, to his and their use and behoof, forever. And I do covenant with the said Richard Perkins, his heirs and assigns, that I am lawfully seized in fee of the afore granted premises; that they are free of all incumbrances; that I have good right to sell and convey the same to the said Richard Perkins, and that I will warrant and defend the same premises to the said Richard Perkins, his heirs and assigns, forever, against the lawful claims and demands of all persons.

In witness whereof, I, the said Daniel Cummings and Elizabeth Cummings, wife of the said Daniel, in token of her voluntary relinquishment of her right to dower in the premises, have hereunto set our hands and seals, this first day of January, in the year of our Lord one thousand eight hundred and thirty-one.

DANIEL CUMMINGS, [L. S.]
ELIZABETH CUMMINGS. [L. S.]

Signed, sealed, and delivered in presence of us—
CHARLES CUTTER,
BENJ. F. HADDUCK.

SUFFOLK, *ss:*

January 7, 1831. Then the above named Daniel Cummings acknowledged the above instrument to be his free act and deed.

Before me, W. MINOT, *Justice of the peace.*

MIDDLESEX, *ss:*

January 8th, 1831. Received and recorded in the registry of deeds, book 301, page 512.

Attest: WM. F. STONE, *Reg.*

Paper writing, marked C, referred to in the execution of a commission to take the depositions of witnesses in the case of Anna Tufts vs. Charles Tufts and al.

GEORGE S. HILLARD, *Commissioner.*

Deed – Perkins to Cutter.

(D.)

Know all men by these presents, that I, Richard Perkins, of Boston, county of Suffolk, and Commonwealth of Massachusetts, merchant, in consideration of the sum of thirteen hundred eighty-one dollars and nine cents, paid by Ammi Cutter, of said Boston, the receipt whereof I do hereby acknowledge, do hereby give, grant, sell, and convey unto the said Ammi Cutter, his heirs and assigns, forever, one undivided third part of a certain piece or parcel of land, situated in Cambridge, county of Middlesex and commonwealth aforesaid, and bounded, viz: westerly on the road leading from Cambridgeport, so called, to the Powder magazine in said Cambridge; southerly on land of Jonas Peirce; easterly as the fence now stands, on land belonging to the heirs of Francis Dana, esq., deceased; northerly on land belonging to Elias Kingsley and others, containing nine acres and one quarter, be the same more or less, with all the privileges and appurtenances thereto belonging, reserving the right to Jonas Peirce to pass and repass to and from his marsh, to carry off hay, over the southerly end of the above described premises; also one undivided third part of a certain other piece or parcel of land, lying and situated in said Cambridge, and bounded, viz: southeasterly on the road leading to the Powder magazine; easterly on land of Thomas Short and others; northerly on land formerly of Jacob Wyeth and others; northwesterly, westerly, and southwesterly on a proprietor's way or salt marsh, belonging to Ephraim Cutter, the heirs of Joseph Adams, and sundry other persons, till it comes to the first mentioned road leading to the Powder magazine, or however otherwise the same may be bounded or reputed to be bounded, with all the privileges and appurtenances to the same belonging, containing twelve acres, be the same more or less; also one undivided third part of a certain tract or parcel of salt marsh land, situated in said Cambridge, containing four acres, sixteen polls, be the same more or less, and bounded, viz: northwesterly on land of Ebenezer Hall; northeasterly on land formerly belonging to Francis Dana, esq., deceased; southeasterly on land of Leonard Stone; southwesterly on Charles river, together with all the privileges and appurtenances thereto belonging; also one undivided third part of another tract or parcel of salt marsh land, situated in said Cambridge, southerly of Captain's island, so called, belonging to the Commonwealth of Massachusetts, and bounded, viz:

southwesterly by Charles river; northwesterly by marsh of Samuel Tufts; northeasterly by said Captain's island, and southeasterly by land of said Commonwealth of Massachusetts, or wharf to the Powder magazine, and containing one-third of an acre, be the same more or less; also one undivided third part of one other tract or parcel of salt marsh land, bounded southwesterly on Charles river; northwesterly on said wharf and land of said commonwealth; northeasterly on said Captain's island, so called; southeasterly on other land formerly of Peter Tufts, jr., deceased, to said Charles river, containing one acre, be the same more or less, with all the privileges and appurtenances to the same belonging.

To have and to hold the afore granted premises to the said Ammi Cutter, his heirs and assigns, to his and their use and behoof, forever. And I do covenant with the said Ammi Cutter, his heirs and assigns, that I am lawfully seized in fee of the afore granted premises; that they are free of all incumbrances; that I have good right to sell and convey the same to the said Ammi Cutter; and that I will warrant and defend the same premises to the said Ammi Cutter, his heirs and assigns, forever, against the lawful claims and demands of all persons claiming for, by, or under me.

In witness whereof, I, the said Richard Perkins, have hereunto set my hand and seal, this eighteenth day of January, in the year of our Lord one thousand eight hundred and thirty-two.

R. PERKINS. [L. S.]

Signed, sealed, and delivered in presence of us—
CHARLES CUTTER.

SUFFOLK, *ss:*

January 21, 1832. Then the above named Richard Perkins acknowledged the above instrument to be his free act and deed.
Before me, W. MINOT, *Justice of the peace.*

MIDDLESEX, *ss:*

January 21, 1832. Received and recorded in the registry of deeds, book 310, page 174.
Attest: WM. F. STONE, *Reg.*

Paper writing, marked D, referred to in the execution of a commission to take the depositions of witnesses in the case of Anna Tufts vs. Charles Tufts and al.

GEORGE S. HILLARD, *Commissioner.*

Deed—Cutter to Tufts.

Know all men by these presents, that I, Ammi Cutter, of Boston, in the county of Suffolk, and Commonwealth of Massachusetts, merchant, in consideration of nine hundred and forty-four dollars to me paid by Charles Tufts, of Cambridge, in the county of Middlesex, and commonwealth aforesaid, gentleman, the receipt whereof I do hereby acknowledge, do hereby give, grant, sell, and convey unto the said Charles Tufts, his heirs and assigns, forever, a certain piece or parcel of land, situated in

Cambridge aforesaid, and bounded as follows, viz: Southeasterly by road leading from Cambridgeport, so called, to the Powder magazine; northeasterly by land sold by me to L. M. Goldsmith; northwesterly, westerly, and southerly on a proprietor's way, or salt marsh, belonging to Ephraim Cutter and others, to the first mentioned road, or however otherwise bounded; containing eleven acres and a half, be the same more or less; with all the privileges and appurtenances to the same belonging. Also one other piece or parcel of salt marsh land, situated in said Cambridge, and bounded as follows: Northeasterly by land of heirs of Francis Dana, esq., deceased; southeasterly by land of Leonard Stone; southwesterly by Charles river, so called; northwesterly by land of Ebenezer Hall, or however otherwise bounded; containing four acres and a quarter, be the same more or less; with all the privileges and appurtenances to the same belonging. Also one other piece or parcel of salt marsh land, situated in said Cambridge, and bounded as follows: Southwesterly by Charles river; northwesterly by land of Samuel T. Frost; northeasterly and easterly by Captain's island, so called, belonging to the Commonwealth of Massachusetts, to the said Charles river, or however otherwise bounded; containing one-third of an acre, be the same more or less; with all the privileges belonging to the same. Also one other piece or parcel of salt marsh land, situated in said Cambridge, and bounded as follows: Southwesterly by Charles river; northwesterly and northeasterly by wharf and land belonging to the Commonwealth of Massachusetts; southeasterly by land of heirs of Jonas Pierce, deceased, to the afore mentioned Charles river, or however otherwise bounded; containing one acre, be the same more or less; with all the privileges and appurtenances belonging to the same.

To have and to hold the afore granted premises, to the said Charles Tufts, his heirs, and assigns, to their use and behoof, forever. And I do covenant with the said Charles Tufts, his heirs and assigns, that I am lawfully seized in fee of the afore granted premises; that they are free of all incumbrances; that I have good right to sell and convey the same to the said Charles Tufts; and that I will warrant and defend the same premises to the said Charles Tufts, his heirs and assigns, forever, against the lawful claims and demands of all persons.

In witness whereof I, the said Ammi Cutter, and Hannah Cutter, wife to the said Ammi, in token of her voluntary relinquishment to dower in the premises, have hereunto set our hands and seals, this first day of February, in the year of our Lord one thousand eight hundred and thirty-four.

AMMI CUTTER, [L. S.]
HANNAH CUTTER. [L. S.]

Signed, sealed, and delivered in presence of us—
R. PERKINS,
A. W. CUTTER.

SUFFOLK, *ss:* *February* 6, 1834.

Then the above named Ammi Cutter acknowledged the above instrument to be his free act and deed.

Before me, JOSEPH WILLARD,
Justice of the peace.

MIDDLESEX, *ss:* *February 7th*, 1834.

Received and recorded in the registry of deeds, book 329, page 345.

Attest: WM. F. STONE, *Reg.*

Deed—Cutter to Tufts.

Know all men by these presents, that I, Ammi Cutter, of Boston, in the county of Suffolk, and Commonwealth of Massachusetts, merchant, in consideration of three thousand dollars to me paid by Charles Tufts, of Cambridge, in the county of Middlesex, and commonwealth aforesaid, gentleman, the receipt whereof I do hereby acknowledge, do hereby give, grant, sell, and convey, unto the said Charles Tufts, his heirs and assigns, forever, a certain piece or parcel of land, situated in said Cambridge, with the buildings thereon contained, and bounded as follows, viz: Westerly on road leading from Cambridgeport, so called, to the Powder magazine; southerly on land belonging to the heirs of Jonas Peirce, deceased; southeasterly, as the fence now stands, on land belonging to the heirs of Francis Dana, esq.; northeasterly on land sold by me to John Low and Elias Kingsley, to the road afore mentioned, or how otherwise bounded, or reputed to be bounded; containing nine acres and a quarter, be the same more or less; reserving the right to the heirs of Jonas Peirce to pass and repass to and from his marsh on the southerly side of the above described premises, it being part of the same to me deeded by Anna Tufts, executrix to the estate of Peter Tufts, jr., deceased, and recorded in the register of deeds office, Middlesex, book 284, page 11, Sept. 27, 1828; with all the privileges and appurtenances to the same belonging.

To have and to hold the afore granted premises to the said Charles Tufts, his heirs and assigns, to their use and behoof, forever; and I do covenant with the said Charles Tufts, his heirs and assigns, that I am lawfully seized in fee of the afore granted premises; that they are free of all incumbrances; that I have good right to sell and convey the same to the said Charles Tufts; and that I will warrant and defend the same premises to the said Charles Tufts, his heirs and assigns, forever, against the lawful claims and demands of all persons.

In witness whereof I, the said Ammi Cutter, and Hannah Cutter, wife to the said Ammi, in token of her voluntary relinquishment to dower in the premises, have hereunto set our hands and seals, this first day of February, in the year of our Lord one thousand eight hundred and thirty-four.

AMMI CUTTER, [L. S.]
HANNAH CUTTER. [L. S.]

Signed, sealed, and delivered in presence of us—
R. PERKINS,
A. W. CUTTER.

SUFFOLK, *ss:* *February* 6, 1834.

Then the above named Ammi Cutter acknowledged the above instrument to be his free act and deed.

Before me, JOSEPH WILLARD,
Justice of the peace.

MIDDLESEX, *ss:* *February* 7, 1834.

Received and recorded in the registry of deeds, book 329, page 348.

Attest, WM. F. STONE, *Reg.*

Agreement of parties.

Circuit court of the United States, district of Massachusetts.

ANNA TUFTS
vs.
CHARLES TUFTS AND EMERSON WHEELER.

In equity.

In the above case it is agreed that all objections to the interrogatories, as leading, to the witnesses as interested, and to the evidence as inadmissible or impertinent, and all motions to suppress any parts of the testimony for these or any other causes, may be made at the hearing of the case.

It is also agreed, that the following instruments may be read as exhibits in the case, at the hearing, without further proof, to wit: two deeds from Ammi Cutter to Charles Tufts, both dated February 1, 1834, one recorded book 329, page 345, the other book 329, page 348, of Middlesex Deeds; contract, Charles Tufts and Emerson Wheeler, dated August 31, 1844; deed from Charles Tufts to Emerson Wheeler, dated September 9, 1834, recorded with Middlesex Deeds, book 448, page 273. Also, that any of the accounts in the books of account of Cutter and Cummings, and Cutter and Perkins, may be read at the hearing.

It is further agreed that the deeds Anna Tufts to Ammi Cutter, and Anna Tufts to Daniel Cummings, witnessed by Isaac Fiske; Daniel Cummings to Richard Perkins, and Richard Perkins to Ami Cutter, witnessed by Charles Tufts, the defendant, all which are referred to by some witness or witnesses in the cause; and the deeds Ammi Cutter to Charles Tufts, the defendant, may be read in the cause, without further proof of execution.

S. E. SEWALL,
For defendants.

RAND, WARREN, & FISKE,
For plaintiff.

Deposition of Daniel Cummings.

In the circuit court of the United States, for the first circuit and district of Massachusetts.

Between ANNA TUFTS, plaintiff,
and
CHARLES TUFTS and EMERSON WHEELER, def'ts.

In chancery.

Interrogatories to be administered to Daniel Cummings, of the city of Boston, in said district, a witness, to be examined as a witness in the above cause, on the part and behalf of the plaintiff.

1st. Whether or not do you know the parties, plaintiff and defendants, in the above cause, or either, and which of them; and, if yea, how long have you known them, or either and which of them; and what is your age?

2d. Whether or not did you know Peter Tufts, now deceased, late husband of the plaintiff, in his lifetime; and, if yea, how long did you know him? And whether or not do you know Ammi Cutter, of Charlestown, in the county of Middlesex, now transacting business in the said city of Boston, as a dealer in oil; if yea, how long have you known him? Whether or not was he a friend of said Peter, or of the plaintiff, now his widow?

3d. Whether or not you were ever in any, and what business, in copartnership with the said Ammi Cutter? If yea, how long did the said copartnership continue, and what share had you and he respectively in the same?

4th. Whether or not, after the death of the said Peter Tufts, you and the said Ammi Cutter ever purchased at public auction any real estate which belonged to the said Peter in his lifetime? If yea, what real estate, where was it situated, and whether or not did it include the homestead where the said Peter in his lifetime lived with his family; whether or not did both, or one, or either, and if either, which of you, attend the sale; and in what or whose names or name was the same bid for and struck off at the vendue; whether or not you and the said Ammi Cutter purchased the same solely for the profit or gain to be made thereby, or with what view or for what purpose did you buy the same?

5th. Please look at the paper writings now exhibited to you, one marked A, purporting to be a deed of conveyance from Anna Tufts, as executrix, to said Ammi Cutter, of two undivided third parts of certain real estate, and the other marked B, purporting to be a deed of conveyance of one undivided third part of the same premises to you, and declare whether or not the real estate therein described is the same which you and the said Cutter purchased at public vendue, and whether these are the conveyances thereof to you and him? If yea, why was two-thirds thereof conveyed to him, and one-third thereof conveyed to you? Whether or not the sums mentioned in the said deeds, when

added together, being $3,460, as the consideration of the premises, did constitute the real and entire consideration paid therefor; whether or not the consideration was paid by you and said Ammi Cutter from co-partnership funds, or by you and said Cutter, respectively, from your respective private funds; whether or not was the price or prices paid therefor entered in the books of any co-partnership between you and the said Cutter; whether or not you and the said Cutter were agreed, at the time, as to the purpose and object of purchasing the same; and whether or not the same was purchased by both of you with the same, or a different object and intention?

6th. Whether or not, at or about the time of the making and delivery of the deeds marked A and B, before referred to, there was any, and if any, what understanding or agreement between the said Anna Tufts of the one part, and you and said Cutter of the other part, relative to the said real estate? If yea, whether or not there was any understanding, promise, or agreement on the part of you and the said Cutter, had or made with said Anna Tufts, that the same real estate should be conveyed to her on any, and if on any, on what terms; and whether or not there was any time limited for said Anna Tufts to comply with said terms, or was it left indefinitely, without any limitation? Whether or not the said Anna Tufts was allowed to enter or remain in possession of the said estate after the said sale and conveyance to you and the said Cutter; and whether or not she has continued, and if yea, how long since the said conveyance, to remain in possession thereof, or to improve the same, or to pay the taxes thereon, or make betterments or improvements upon the same, or lease and take the income, rents, or profits thereof? If she has remained in possession, or improved or made betterments upon the premises, or took the rents, income, and profits thereof, whether or not it has been under any such understanding or agreement as is hereinbefore inquired after, that she might on certain terms become the owner thereof. And if yea, state fully and particularly the whole understanding and agreement relative thereto, with the time, place, and circumstances thereof.

7th. Whether or not Richard Perkins, of the city of Boston, succeeded to you as a co-partner of the said Cutter; and if yea, when, and what share did he have in the copartnership? Please look at the paper writing now exhibited to you, marked C, purporting to be a deed of conveyance from you to the said Perkins of one undivided third part of the real estate before mentioned, and declare on what occasion, and for what reason and purpose, the same was made; and whether you ceased to be a co-partner, or the said Perkins become a co-partner with said Cutter, at or about the time when the same conveyance was made. Whether or not, after the same conveyance to said Perkins, and while the said Perkins held the said third part, the said Anna Tufts continued in possession of the premises, and to improve the same, and to take and receive the rents, issues, and profits thereof; and whether she has remained in possession thereof hitherto?

8th. Whether or not any entry or entries have been made in any of

the books of the co-partnership between you and the said Cutter respecting said estate, or any payments or receipts on account thereof? If yea, please examine your books, and state what entries have been made in respect thereof, and under what date or dates; and by whom, or in whose handwriting, the same were made; and produce and let the commissioner identify the books.

9th. Whether or not you ever expected to receive any, and if any what, benefit or advantage from taking a conveyance of the said premises? And whether or not did the said Anna Tufts pay, or agree to pay, you any rent therefor as a tenant; or whether or not did she hold with the expectation, on any and what terms, of becoming the owner thereof?

10th. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

RAND, WARREN & FISKE,
Plaintiff's solicitors.

Cross interrogatories to be administered to Daniel Cummings on behalf of the defendants.

The defendants except and object to all the plaintiff's interrogatories as endeavoring to prove a contract for the purchase of real property, or a trust in relation to the same, by parol evidence.

The defendants also object to so much of the fourth interrogatory of the plaintiff as inquires whether he and Ammi Cutter purchased certain premises for profit or gain, or with what view, and for what purpose, they bought the same, as irrelevant, and as asking for matters of intention; and to so much of fifth interrogatory as inquires as to the purpose and object of said Cutter and Cummings in purchasing the said premises; and to the ninth interrogatory for the same reason; and to the eighth interrogatory, as asking for copies of entries in books, when the books themselves ought to be produced.

1st. Please state whether in the books of said Cutter and Cummings an account was not kept with the said lands and tenements purchased by you and said Cutter of said Anna Tufts, as executrix, under the head of "*Estate in Cambridge.*"

2d. Is there not an account in said books with Mrs. Anna Tufts? In that account is she not charged every quarter with rent for said Cambridge estate, $54.68, or some other and what sum? For how many quarters is she charged with said rent, and how many did she pay, and how did she pay? Please annex to your answer the books containing said accounts, or if you cannot do that, annex copies of said accounts from said books, and let the magistrate who takes the deposition identify the books. Why was she charged with rent?

3d. If you state, in answer to the plaintiff's fourth interrogatory, that there was any agreement between you and said Cutter on the one part,

and said Anna on the other part, that she might buy the said premises of you and said Cutter, please say when said agreement arose, whether it was before or after you purchased the said premises at auction, and before or after the said deeds marked A and B were delivered, and whether it was verbal or in writing? And how long was said agreement to sell to her to continue? Was it limited or unlimited in time?

4th. If you have said there was any such agreement, please to say whether there was any, and if any what, consideration for such agreement to sell said Anna Tufts.

5th. Did said Anna Tufts, in writing, or verbally, ever agree to pay any sum for said premises to you and said Cutter? If yea, within what time, and in what manner, did she agree to make the payment; or was it left optional with her whether to purchase the said premises or not?

6th. If you say she agreed absolutely to purchase the premises, did you take any evidence of the contract in writing or otherwise? And if not, why not?

7th. Was it not understood and agreed by you and said Cutter and said Anna that in addition to the rent for said premises she was to pay the taxes on them, and keep them in repair as long as she occupied them? And was not her paying the rent and taxes regularly and punctually, and making the repairs, a condition on which she was to be allowed to purchase the same?

8th. Were you and said Cutter under any obligation to said Anna not to sell the said premises to any person you chose? Were you bound never to sell the premises during her life to any other person, and yet to let her remain in possession of them?

9th. If she remained in possession of the place for ten years without paying rent, were you and said Cutter still to be bound not to sell them to any other person?

10th. How long were you bound not to sell the said premises to any other person that she might have an opportunity of buying them? Was there any written obligation or agreement on your part to her to that effect, or any evidence called to witness the contract?

11th. What would be a fair annual rent for the said premises since you and said Cutter purchased them?

12th. When you conveyed your interest in the said premises to said Perkins, did you in any way restrict his right to sell and convey the same? If yea, in what manner; or was the said conveyance made by you to said Perkins unrestricted, and giving him the absolute right to sell the same to any person? Did you, when you were making the conveyance to said Perkins, notify or inform him that he must hold the said premises for the benefit of said Anna? If yea, when and what did you so inform him? State particularly.

13th. Did not you and said Cutter render said Anna Tufts one or more accounts, in which you and said Cutter charged her with rent for said premises, or give her one or more receipts for such rent?

14th. Did you and said Cutter ever charge said Anna on your books

with said estate as a purchaser? If yea, please give a copy of the entry.

15th. Have you talked with said Anna Tufts about your testimony in this case? If yea, when, and how often?

16th. Were said Anna Tufts' interrogatories to you read to or by you before you were examined by the magistrate who takes your deposition? If yea, when; where; and in whose presence?

S. E. SEWALL,
For C. Tufts and E. Wheeler.

Plaintiff objects to the eighth, ninth, and the first question of the tenth cross interrogatories, as inquiring for matter of opinion as to the law.

Answers of Daniel Cummings to the interrogatories hereto annexed on the part of the plaintiff.

1st. To the first interrogatory he saith: I know Anna Tufts, the plaintiff. I do not know the defendants, but have seen Charles Tufts. I have known Mrs. Tufts for about seventeen years, but my acquaintance with her has been but slight. I am a little over sixty years of age.

2d. To the second interrogatory he saith: I did not know Peter Tufts. I have known Ammi Cutter since about the year 1818. I should judge from his acts that he was a friend of the plaintiff, and I do not know that he was not a friend of her husband.

3d. To the third interrogatory he saith: I was in business with him as copartner in the oil business for four years. I had a share of one third, and he had two thirds.

4th. To the fourth interrogatory he saith: We purchased a piece of land and house in Cambridge, where the plaintiff was then living, and which I supposed belonged to Peter Tufts. I don't know that he ever lived there, but presume that he did. We were both at the sale. Mr. Cutter bid it off, but I can't say whether it was in his own name or in the name of the firm. It was purchased for Mrs. Tufts' benefit, as I understood, and not for our profit or gain.

5th. To the fifth interrogatory he saith: The real estate described in these deeds is the same that was purchased by us, and I presume that these are the conveyances to him and to me. The estate was paid for from our joint funds, and as I was entitled to only one third of the profits, I took but one third of the estate. $3,460 was the real and entire consideration paid for the estate, to the best of my knowledge. The price of the estate was entered in our copartnership books. Mr. Cutter and I were agreed, at the time, as to the purpose and object of purchasing the estate, and I presume it was with the same object and intention.

6th. To the sixth interrogatory he saith: I learned from Mr. Cutter that there was an understanding or agreement between him and Mrs. Tufts that the purchase should be for her benefit—that she might repurchase the estate, if able; but I did not speak to Mrs. Tufts about it at the time. As I understood, if she should pay the money and interest, she could have it conveyed to her; and this was left

indefinitely as to time, as far as I had any knowledge of it. She remained in possession of the estate until I parted with my interest in it, and I suppose she has been there ever since. I always understood that her occupation of the estate was with the understanding that she might become the owner. The understanding was made with Mr. Cutter, and I cannot state the time, place, or circumstances thereof. As to rents, or profits, or betterments, or improvements, made by her, I know nothing.

7th. To the seventh interrogatory he saith: I sold out to Mr. Perkins my interest in the concern at the time this deed was made (Jan. 1. 1831.) I do not know what share of the profits he had, but I presume it was the same as I had had. This deed was made because it was necessary to convey this estate, as it was a part of the copartnership property. I then ceased to be a copartner with Mr. Cutter—that is to say, on the 1st day of January, 1831. I do not know that Mrs. Tufts remained in possession of the premises, or improved the same, or took the rents, issues, and profits thereof, after my conveyance to Perkins. I do not know if she has remained in possession of the estate hitherto.

8th. To the eighth interrogatory he saith: I remember that an entry was made in our books at the time of the purchase of the estate relative thereto, and that is the only entry I can recollect made with regard to the estate. The books are not in my possession or within my control; I parted with them when I parted with my interest in the concern. I will endeavor to obtain the books, so that I can answer and comply with the requests contained in this interrogatory.

9th. To the ninth interrogatory he saith: I never expected to receive any benefit or advantage from taking a conveyance of the premises. Mrs. Tufts agreed to pay the interest on the purchase money, but never paid or agreed to pay any rent, as such; and this agreement I learned from Mr. Cutter. As I learned from Mr. Cutter, she held the estate with the expectation of becoming the owner, on paying to us the principal and interest.

10th. To the tenth interrogatory he saith: In answer to that, I cannot state any thing further which would be material to the case or of benefit to the parties.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he saith: All I can say is, that an account was kept with the estate, but I cannot now state under what head, though I think that it was probably under the head of "*Estate in Cambridge.*"

2d. To the second cross interrogatory he saith: The books are not mine, and are not under my control. I therefore cannot answer this at present.

3d. To the third cross interrogatory he saith: I presume the arrangement was made before the sale, and before the delivery of the deeds marked A and B, but it was made with Mr. Cutter and not with myself. I presume that it was verbal, as I never heard of any writing about

it. I think the agreement specified no time at which she was to pay for the estate.

4th. To the fourth cross interrogatory he saith: There was no pecuniary consideration. Our only inducement was a desire to benefit Mrs. Tufts.

5th. To the fifth cross interrogatory he saith: I do not believe that there was any agreement, verbal or in writing, which would have enabled us to compel her to take the estate. I always considered her as anxious to have the estate in such hands that she could purchase it for cost and interest, when she was able, and in this sense it was optional with her to purchase the premises or not. I do not know of any agreement as to the time or manner in which she was to make the payment.

6th. To the sixth cross interrogatory he saith: There was no absolute agreement to my knowledge, on her part, to purchase the premises.

7th. To the seventh cross interrogatory he saith: I know nothing of my own knowledge of the said agreement. All I knew of it was from Mr. Cutter, as has been previously stated by me.

8th. To the eighth cross interrogatory he saith: The obligations and agreements with regard to the estate were made between Mr. Cutter and Mrs. Tufts, and are not known to me of my own knowledge.

9th. To the ninth cross interrogatory he saith: There was never any limitation as to time, to my knowledge; but, as I have before said, the agreements were all made by Mr. Cutter.

10th. To the tenth cross interrogatory he saith: To this I make the same answer as I made to the ninth cross interrogatory.

11th. To the eleventh cross interrogatory he saith: I know not.

12th. To the twelfth cross interrogatory he saith: The conveyance was absolute on its face, and without restriction; but Mr. Perkins was a clerk in the concern, and knew all the circumstances of the transaction—even more than I knew, and it was unnecessary for me to give him any information; and I have no recollection of having said any thing to him as to terms on which he was to hold it.

13th. To the thirteenth cross interrogatory he saith: I did not attend to the books, and cannot answer that question. Mr. Perkins was bookkeeper. I think it probable that accounts were rendered to Mrs. Tufts.

14th. To the fourteenth cross interrogatory he saith: I am unable to answer that question, or to give a copy of the entry at present.

15th. To the fifteenth cross interrogatory he saith: I have never talked with Mrs. Tufts about my testimony in this case.

16th. To the sixteenth cross interrogatory he saith: I have never heard or seen these interrogatories, or any of them, before they were now read to me.

DANIEL CUMMINGS.

Sworn to before me, on the fifth day of June, 1845.

GEORGE S. HILLARD, *Commissioner*.

Deposition of Lemuel Smith.

In the circuit court of the United States for the first circuit, and district of Massachusetts, in chancery, between Anna Tufts, plaintiff, and Charles Tufts and Emerson Wheeler, defendants.

Interrogatories to be administered to Lemuel Smith, of Worcester, in said district, esquire, a witness to be examined on the part and behalf of the plaintiff.

1st. Whether or not do you know the parties, plaintiff and defendants, or either, and which of them; if yea, how long have you known them, or either and which of them? Whether or not you knew Peter Tufts, late of Cambridge, in said district, deceased; or the premises and homestead where he dwelt, now occupied by the plaintiff? And if yea, when and how your acquaintance with the said Peter and the plaintiff commenced? And whether or not you have been in the practice of going to the dwelling-house or premises of said Peter, or of the plaintiff? And if yea, how often and how long was or has been that practice kept up? Whether or not you were treated by the said Peter and Anna, in his lifetime, as a friend of their family, or took any interest as such in their concerns? And whether or not, since the death of the said Peter, you have been treated by the said Anna and Charles, or either and which of them, as a friend of the said Anna's family? Whether or not have the affairs and concerns of the family, or of the said Anna and Charles, or either and which of them, been talked of in your presence and hearing, and in the presence and hearing of said Charles? If yea, have their concerns or the concern of either of them been freely communicated to you, or otherwise? And whether or not they have often, and if so how often, been the subject of conversation with or in the presence of said Charles? Whether or not do you know Ammi Cutter, of Charlestown, in said district, dealer in oil, or Daniel Cummings, of the city of Boston, formerly a copartner with said Ammi Cutter? If so, how long have you known them, or either and which of them?

2d. Whether or not you were present at the sale of the said homestead and premises at public auction, in or about the year 1828? If so, whether or not the said Cutter and Cummings, or either and which of them, were present and bid off the same? And to whom were the same struck off? If you say the same were struck off to said Cutter and Cummings, or either of them, please declare whether or not, after the same had been so struck off, and before the execution of the deeds, or at any other and what time and where, after the sale of the same premises at public auction as aforesaid, there was in your presence any agreement, understanding, or conversation, had or made between the said Cutter and Cummings, or either of them, in behalf of himself and his copartner or otherwise, of the one part, and the said Anna Tufts of the other part, relative to her occupying, improving, and enjoying the benefit of the said homestead and premises, or having a conveyance to her of the same on any terms? If yea, what was the agreement or understanding then had and made between the parties relative to the pre-

mises? And was the said Charles Tufts present and within hearing during the having or making of the agreement, conversation, or understanding between the parties? Please to set forth fully and particularly what, if anything, was understood and agreed between the parties touching the occupation and improvement of the premises; and touching the enjoyment of the income and profits thereof; and touching any conveyance, if any in any event was to be made thereof. And if you say that any conveyance was to be made thereof to the said Anna, the plaintiff, on the payment of any money, please to state whether any time was fixed for the payment thereof, or whether the said Anna was to have her lifetime to pay the same, or how otherwise. And can you say from anything, and if so what, which took place after the sale, whether or not the said Cutter and Cummings originally bid off and took conveyances of the premises and said homestead for their own use and benefit, or with the view of making profit therefrom, or with a view to or for the benefit and advantage of the said Anna, or how otherwise? And if you say it was with a view to or for the benefit of the said Anna, please to state how you know the same; and whether the said Charles knew thereof; and if so, when first he knew thereof.

3d. If you speak of any understanding or agreement between the said Cutter and Cummings, or either of them, and the said Anna Tufts, relative to the premises or touching any conveyance to be made thereof on any terms, please to declare whether the same was afterwards mentioned or talked of in the presence of the said Charles, or known by him to exist, before he received any conveyance of the premises from the said Cutter. And if yea, whether or not was it more than once, and if so how often, mentioned or alluded to in his presence and hearing, or by him, before that time? And if you speak of any such agreement to convey the premises on any terms or condition to said Anna, declare whether or not was the said Charles made clearly to understand that on such, or on what terms or conditions, the conveyance was to be made of the premises to said Anna. And if you say that he was, please to declare what have been your means of knowing it to be so. And whether or not he has ever said, or in any and if so how and what way admitted, that there was such agreement or understanding as you speak of? And if so, whether more than once, and if yea how frequently, before the conveyance of the premises to him?

4th. Whether or not, at any time or times before the conveyance of the said homestead by the said Cutter to the said Charles Tufts, you ever conversed with him, or with any one and whom in his presence and hearing, and without his denial as respecting any proposal as to his taking such conveyance thereof? If so, what was said in any such conversation? Was any agreement between said Cutter and Cummings, or either of them, and said Anna, mentioned or alluded to? And if so, how and what was said respecting the same? And was it proposed by him, or by any one to him, to take a conveyance of the premises from said Cutter to him, for his own benefit and advantage, or for the benefit and advantage of the said Anna, or for any and what purpose? And what if anything was said respecting his taking such conveyance? And

whether you know from anything said by him or in his presence—whether he, or any one else and who, first suggested or proposed his taking such conveyance? And if so, what were the facts relative thereto? And what by him, or in his presence, and not by him denied, was declared to be the object thereof? And whether or not there was any, and if any what, agreement or understanding between him and the said Anna Tufts relative thereto?

5th. Whether or not, at any time or times since the said conveyance from the said Cutter to the said Charles Tufts, you have ever conversed with him, or with any one in his presence and hearing, and without his denial, respecting any purpose or object of his taking or holding such conveyance of said property; or respecting any interest which the said Anna Tufts claimed to have therein? If so, what was said in any such conversation? Did the said Tufts declare, or in any and if so what way admit, what was the purpose and object of such conveyance, or that the said Anna had or had not any interest therein? And what if anything did he say, or in any and what way admit, touching the same? And whether, if any such conversation was had, or any such declarations or admissions were made, they were had or made on more than one or how many occasions?

6th. Whether or not you have ever inquired of the said Charles Tufts, whether he had taken a deed of the said property, to hold it on the same terms for the benefit of the said Anna, as the said Cutter held it? Or made any inquiry of him, and if any what inquiry, of similar import? If so, please to state what answer if any he made to your inquiry.

7th. Whether or not you ever made any inquiry of the said Charles, or anything was said to you by him, respecting any limitation of time for the said Anna to redeem or do what might be necessary for her to have a deed of the said estate and premises? If so, what inquiry did you make, and what was said by the said Charles in answer to your inquiry or otherwise, touching this matter? And when, and on what occasion, as nearly as you can recollect? And whether or not you inquired of him whether the said Anna had her whole lifetime for any such purpose? If yea, what was his reply? And whether or not you ever inquired of him, why he had taken the estate to hold in the manner or on the terms mentioned? If yea, what was the manner, or were the terms mentioned, and what did he reply? Whether or not, after the said Charles had taken a conveyance of the premises from the said Cutter, if you had or heard any, you had or heard more than one conversation with him, or in his presence and hearing, and without his denial of what was said, wherein the terms, agreement, or trust on which he held the said estate and premises, was mentioned or alluded to? If so, how many such conversations did you have or hear? And what was said therein? And how recently before the commencement of this suit have you had or heard any such conversation?

8th. Whether or not the said Anna, since her husband's, the said Peter Tuft's, death, has made any repairs, alterations, or improvements, or betterments, on the said estate; and if so, what repairs, alterations,

betterments, or improvements, and to what extent and value, and at what expense, as nearly as you can state; whether or not she has made any, and if any, what repairs, alterations, or additions in or to the buildings, or constructed any new building thereon; whether or not she has planted any, and what fruit or other trees thereon; whether or not in this or any other, and what way, she had added any thing, and what, to the value of the premises; and how recently have any betterments, if any, been made?

9th. Whether or not you have heard the said Anna, in the presence and hearing of the said Charles, speak of any such repairs, alterations, additions, improvements, or betterments, as having been made, or as intended to be made by her? If so, what was said, and whether or not she spoke of them as being made or intended to be made for her benefit, or that of any one else; and whether or not the said Charles, on any such occasion, denied that she had any such interest in the premises as to authorize her to deal with the said estate and premises in such way: and whether or not you have heard any such conversation or declarations more than once; and how recently for the last time before the commencement of this suit?

10th. Whether or not you have often, and if so, how frequently, had conversations with the said Charles, or heard conversation in his presence and hearing, touching the said estate and homestead; and whether or not, in any such conversation, or on any such occasion, the said Charles ever claimed, or pretended to own, the entire and absolute interest, at law and in equity, in the premises; or whether or not spoke of having made, or intending to make, any betterments or improvements therein solely on his own account; or whether or not he spoke of having let, or intending to lease, the same on his own account; or how otherwise have these matters been treated in any such conversation, if any thing has been said upon the subject? Whether or not has the said Charles, as pretended owner of the premises, made any repairs, betterments, or improvements thereon; or let or attempted to lease the same; or demanded or received any rent therefor; or occupied, improved, or managed the same on his own account; or pretended to be the exclusive proprietor thereof, at any time before 1842? Or has he before then, in your presence and hearing, spoken of or treated the same as exclusively belonging to him?

11th. Whether or not the said Anna, at any time or times, and if so in what years and to what extent, has sold sand or gravel to be carried, and which was carried from the premises; and if so, whether or not the sales were made on account of the said Anna, or of the said Charles; and whether or not you have heard from the said Charles or said Anna, or any one in his presence and hearing any thing, and if any thing, what said relative thereto; and whether the said Charles has ever objected thereto, or complained of the doings of said Anna herein, on any, and if any, what account, or for any, and what reason; or whether he has in any, and if so, what way aided therein?

12th. Whether or not, in the year 1839 or 1840, the said Anna went

on a journey to New Orleans, or elsewhere; and if yea, whether or not you heard, in the presence and hearing of the said Charles, at or about the time, or before or after, and how long before or after, and when, the purpose or object of such journey declared or spoken of? If so, what did the said Charles say, if anything, relative thereto? Did he approve or disapprove thereof?

13th. What has been the occupation or employment of the said Charles since the death of his father, the said Peter; and what emolument, if any, has he received from any such occupation or employment, as far as you are able to set forth; and had he any other property of any considerable amount, and if so, what property, which was not derived from such occupation or employment? If you say that he had at any time charge of the Massachusetts Powder Magazine, please to state whether that appointment was procured by his exertions or influence, or by the exertions and influence of any other person or persons, and of whom, and at whose solicitations; and whether the said Anna took any, and if any, what part or interest therein; and whether or not, after such appointment, the said Charles attended personally at all times to the receipt and delivery of powder there; or whether any one, and if so, who, and what part of the time, acted therein for him; and whether gratuitously or otherwise; and whether or not the said Charles, without the assistance of such person, would have been able to retain that office, or have discharged the duties thereof satisfactorily?

14th. Whether or not you have known the said Charles since the death of his father, Peter Tufts, intimately; whether or not he for any, and what time, lived, and boarded, and lodged with the said Anna; what was his age at the death of his father, in or about 1825; whether or not he was treated as one of her family, as the rest of the children; whether he professed to act for himself, within your knowledge, or for the said Anna, in any thing which he did on the estate; whether or not he receipted or paid bills for her, and how long did he continue to live with her?

15th. Whether or not you have visited that part of Cambridge, called Cambridgeport, frequently, on business or otherwise; and if so, whether or not you had a general, or how extensive acquaintance there, in the neighborhood of the premises; and whether or not was the said Peter Tufts, in his lifetime, or the said Anna, since his death, and the estate and premises aforesaid, generally, or how otherwise, known or unknown to the inhabitants there; whether or not, after the said sale at auction, and down to 9th September, 1844, or at any time before the time last mentioned, there was any, and if any, what notoriety; and whether, if at all, it was generally, or how extensively, known in the neighborhood, that said Anna Tufts had, or claimed to have, some interest in the said homestead or estate; or that the same was managed and carried on by her, or that she made improvements and betterments thereon, or sold sand and gravel, being part of the premises? Please to set forth fully what, if any thing, has come to your knowledge relative to the premises, and what have been your means of knowing?

16th. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

RAND, WARREN & FISKE,
Solicitors for plaintiff.

Cross interrogatories on behalf of the defendants to Lemuel Smith.

The defendants object to the first fifteen interrogatories of the plaintiff, as seeking to prove a contract for the purchase of real property, or a trust in relation to the same, by parol evidence; and also to so much of the second interrogatory as inquires whether Cutter and Cummings "bid off and took conveyances of the premises and said homestead for their own use and benefit, or with the view of making profit therefrom, or for the benefit and advantage of said Anna," as asking for matters of inference and opinion, and not for facts; and also to so much of the third and fifth interrogatories as inquire as to what said Charles Tufts admitted, for the same reason; and also to so much of the third interrogatory as inquires whether said Charles was made clearly to understand on what terms, if any, the conveyance was to be made of the premises to said Anna, for the same reason; to so much of the eleventh interrogatory as inquires whether said Charles Tufts aided therein, as leading.

They also object to the thirteenth interrogatory, as irrelevant and impertinent; and also to so much of the fourteenth interrogatory as inquires, whether said Charles professed to act for himself or for said Anna in anything which he did on the estate, because it asks for matters not within the witness's knowledge; and to the fifteen interrogatory, as asking for hearsay evidence.

1st. How long did you ever reside in Cambridgeport, and when? How long have you resided in Worcester, and how frequently have you visited said Cambridgeport since you resided in Worcester?

2d. Has not Ammi Cutter sworn in court, that he bought the said premises on account of said Cutter and Cummings, and not on account of said Anna Tufts? If so, when and where?

3d. If in answer to the plaintiff's second interrogatory, you say that there was any agreement between said Cutter and Cummings and said Anna, made in your presence, please say whether it was verbal or in writing. And how long it was to continue? Was she to have the privilege of purchasing the said premises, for an unlimited period of time, or for any limited period? Was the privilege to extend for more than ten years? Please to state all the conversation you heard between them on this subject.

4th. If you say there was any such agreement, please to say whether there was any, and if any what consideration, for such agreement to sell to said Anna Tufts; or was it a favor or privilege given her without consideration.

5th. Did said Anna Tufts to your knowledge, in writing or verbally, ever agree to pay any sum for the purchase of said premises from said Cutter and Cummings? If yea, within what time and in what manner did she agree to make the payment; or was it optional with her whether to purchase the said premises or not?

6th. Was not the agreement, if there were any, made between said Cutter and Cummings and said Anna Tufts, to this effect, to wit, that if she paid the interest on the purchase money, or some rent agreed on, to said Cutter and Cummings regularly every quarter, and the taxes and repairs on the premises, and also paid the amount of the price which they had paid for the same, at any time within ten years from the time they made the purchase, she might have the privilege of buying them during those ten years? If this was not the agreement, please state in what particulars it differed from the actual agreement.

7th. Did not said Cutter and Cummings buy the said premises with their own funds, and on their account, and without any agreement with said Anna in relation thereto?

8th. Did not said Charles Tufts buy the said premises of said Cutter with his own funds and his own credit?

9th. If in answer to the fourth interrogatory you say there was any agreement between said Charles and said Anna in regard to his purchasing said premises, please say how you know there was any such agreement, and whether you are certain all you have told of said agreement was told by him, or in his presence, and not denied by him. Did he say anything? If so, please state particularly all he said, and the whole conversation.

10th. Have you not heard from said Anna Tufts, or heard it stated in her presence without being denied by her, that she was to have five years from the time said Charles purchased the said premises to purchase them of him, or some other and what limited time to purchase them of said Charles?

11th. Was it not made a condition of the agreement of said Anna with said Charles, in regard to the purchase of said premises, that she should pay the rent or interest regularly, pay the taxes and all repairs on the premises, and that she was to forfeit her claim to purchase if she did not make these payments; or what was the agreement between said Anna and Charles in reference to the payment of rent, or interest on the purchase money, taxes and repairs? Please state the whole conversation on this subject.

12th. How long was said Anna to retain the right of purchasing the said premises, if she made no payments? Please state all the conversation between said Anna and said Charles on this point.

13th. If you say there was any agreement between said Anna Tufts and said Charles in reference to the purchase of said premises by her of him, please to say what was the consideration given by her for said agreement on his part. Did she bind herself in any way to purchase the said premises, or promise to buy them within any stipulated time,

or at all; or was it entirely optional with her whether to purchase them or not?

14th. Had said Charles any power to compel said Anna to purchase said premises? If yea, what?

15th. If in answer to the eighth interrogatory, you say that said Anna has made any repairs, betterments, or improvement on the premises, please state particularly what repairs, betterments, or improvements she has made, or the value of each one of them. And how you know what money she paid for the same or any part thereof; please say how much you have seen her pay for the same, and to whom; and who made all the repairs, betterments and improvements you have named. And please state particularly every betterment and improvement you say she has made, and the value of it, and how you know she paid for it, and to whom, and whether you have not some and what reason to believe that said Charles paid for most if not all of said repairs, betterments, and improvements.

16th. If you say said Anna has planted trees, please say whether she has planted or set out any other trees than those raised in a nursery on said premises. And if so, how many and what sort of trees, and how you know she paid for setting out the same, and not the said Charles?

17th. Are the said premises now in as good repair as they were at the death of said Peter Tufts?

18th. If in answer to the tenth interrogatory of the plaintiff, you say that said Charles has made no betterments or improvements on the premises, how do you know that he has made no such betterments or improvements? Was not a shed raised on the premises in 1840, paid for by said Charles? Did not said Charles in the year 184—, make an addition to the barn, and pay for the same? Has not said Charles also had new fencing put on the said premises, and paid for the same? Do you not know, or have you not heard from said Anna, that said Charles has let on his own account several acres of marsh land, part of the premises, and received the rent on his own account for a number of years past?

19th. Have you not sometimes heard said Anna Tufts deny that she had any interest in the said premises?

20th. What have been the pecuniary circumstances of said Anna, since the death of said Peter Tufts—straitened or otherwise? What property, if any, has she had, yielding her an income during that time?

21st. Have you conversed with said Anna about the evidence you are to give in this case, or about the case? If yea, when? And how many times? And how long?

22d. Have the plaintiff's interrogatories in this case been read by or to you before you were examined by the magistrate who is taking your deposition? If yea, when, and who was present?

S. E. SEWALL,
for C. Tufts and E. Wheeler.

A true copy, attest, ——— ———, *Clerk.*

Answers of Lemuel Smith to the interrogatories hereto annexed on the part of the plaintiff.

1st. To the first interrogatory he says: I have known Charles Tufts and Anna Tufts for many years. I do not know Emerson Wheeler. I also knew the late Peter Tufts. I know the premises where he lived, and which the plaintiff now occupies. My acquaintance with the late Mr. Tufts began nearly thirty years ago. It commenced by my being a manufacturer of gunpowder, and his being the keeper of the magazine where I went to deposit gunpowder. The plaintiff came to reside in his family, to take care of his first wife in her last illness, and my acquaintance then commenced with her. This was a year or two after I first knew Mr. Tufts. I have been in the habit of going to the premises, occupied by the late Mr. Tufts and the plaintiff, for thirty years. I have been there many times every year. I was treated by the said Peter Tufts and the plaintiff, in his lifetime, as a friend of the family, and, as such, took an interest in their concerns. Since his death, I have been treated by the said Anna, and the said Charles, as a friend of the said Anna's family. The concerns of the family have been talked over by both of them in my presence, and the concerns of both of them have been freely communicated to me by both of them. They have often been the subject of conversation in Charles's presence, but I cannot say how often. I know the said Ammi Cutter, and have known him upwards of twenty years. I have seen Daniel Cummings, but do not know him.

2d. To the second interrogatory he says: I was present at the sale of the said homestead, at auction, but I cannot tell the exact date. It was about 1828. Mr. Cutter was present and bid it off. It was struck off to him. I do not know whether Cummings was there. After the sale, and on the same day, and before any deed was given, we went into one of the rooms in the house, Mrs. Tufts, Mr. Cutter, and myself. An agreement was then and there made between Mr. Cutter and Mrs. Tufts, that she was to give him a deed of the premises, and whenever she paid him the principal and interest, he was to redeed it to her. The said Charles Tufts was not present, or in hearing, to my recollection. It was agreed that she should occupy the premises and enjoy the income and profits. There was no time specified for her to make the payment, and I considered that she had her lifetime to do it in. The said Cutter took a conveyance of the premises, and bid them off for her benefit and advantage, and not his own profit. I know this from what was said by both of them. I cannot tell when Charles first knew of this, but he did know it. I do not know anything as to what part Cummings had in the conveyance.

3d. To the third interrogatory he says: This agreement was several times talked about between Mrs. Tufts, Charles Tufts, and myself, before he took the conveyance, and he always acknowledged to me that the agreement was, that Mrs. Tufts was to have the premises on paying the price thereof and interest. He distinctly admitted it more than

once, but I cannot say how often, or how often it was talked about among us.

4th. To the fourth interrogatory he says: I have talked with Mrs. Tufts and Charles, before he took a conveyance of the premises, about his taking a conveyance thereof. The agreement before mentioned, between Mr. Cutter and Mrs. Tufts, was talked of in these conversations, and it was proposed, I do not remember by whom it was first proposed, that Charles should take the deed from Mr. Cutter, and step into his place in all respects, and hold the property for her benefit and advantage, and not his own. The agreement was, that he should step into Mr. Cutter's shoes, and transfer the property to her whenever she paid the amount paid for it and interest. This was declared to be the object of the conveyance by Mrs. Tufts, and assented to by him.

5th. To the fifth interrogatory he says: I have often talked upon the subject with the said Charles, since the conveyance to him, and he always admitted that he took and held the estate for her benefit, and that she, Mrs. Tufts, had an interest therein, and was entitled to a deed whenever she paid him the price advanced and interest; and nothing was ever said about any stated time. He has often made these statements and admissions to me since the conveyance to him.

6th. To the sixth interrogatory he says: I have inquired of the said Charles Tufts whether he had taken a deed of the said property to hold it on the same terms, for the benefit of the said Anna, as the said Cutter had held it, and he admitted that he had taken it to hold on the same terms as the said Cutter had held it, and for her benefit.

7th. To the seventh interrogatory he says: I asked the said Charles if there was any time set for her to redeem the said estate, and he said that there was none. I do not recollect the occasion when this was said. There was nothing said in particular as to whether she had her lifetime to redeem it in, but simply that there was no time set. I asked him if he had taken a deed of the premises on the same terms as Mr. Cutter had done? He then said that he had taken a deed on the same terms. I then said, you have taken a deed, and whenever she can raise the money to pay the principal and interest, you are to redeed it to her. To this he assented. I asked him why he did it? He said it would fetch it all into the family, and it would be there at home. I have had repeated conversations on the subject with him since he took the conveyance, in which the terms on which he took the conveyance were discussed, I cannot say how many, in which he said and admitted that he held the estate for her, and was bound to convey it to her on her paying him the amount paid and interest. I cannot tell how long before the commencement of this suit my last conversation on the subject with him took place, but it was as much as three or four years ago.

8th. To the eighth interrogatory he says: The said Anna Tufts, since her husband's death, has raised the shed upon the said premises one story, and has added to the barn. She has also enlarged the shed. She has made the barn nearly double the former size. She has kept the whole buildings in good repair. The expense of these alterations and

improvements I am not able to state. She has planted a great many fruit and other trees upon the estate. She has added to the value of the estate materially by these improvements. I should think it was five or six years since any particular betterments were made. It may be less time since the additions were made to the barn.

9th. To the ninth interrogatory he says: I have frequently heard Mrs. Tufts speak, in the hearing of Charles, of the said repairs, improvements, and betterments, as made and intended to be made for her benefit, and that of her family; and he never denied that she had such interest in the premises as to authorize her so to do. I have frequently heard her make these statements in his presence and hearing. I cannot say when I last heard her, or how recently before the commencement of this suit. Little or nothing has been said thereon for the last two or three years.

10th. To the tenth interrogatory he says: I have had repeated conversations with the said Charles respecting the said estate and homestead. He never claimed or pretended to own the entire and absolute interest, at law and in equity, in the premises; and he never spoke of making or intending to make any betterments or improvements on his own account. He never spoke of letting, or intending to let, the same on his own account. He has always spoken of the beneficial interest in the estate as belonging to her. He has always considered it her's. I never knew him to make any repairs or betterments, or to let it, or attempt to do so, or demand or receive rent, or occupy and improve the premises on his own account, or pretend to be the exclusive proprietor thereof, at any time before 1842; and he never before that time spoke of it in my presence and hearing as belonging exclusively to him.

11th. To the eleventh interrogatory he says: Mrs. Tufts has sold a great deal of sand and gravel, which was carted away from the place; but I can't state in what years, nor to what extent. These sales were made on account of Mrs. Tufts. I have heard so from both Mrs. Tufts and Charles. He never made any objection or complaint thereof. She has often asked him to ascertain how much had been sold, and to get the price for it, and he has done so. He has often acted as her agent in the sale of the gravel. Mrs. Tufts often said that the gravel-pit was a good thing, and brought her something of an income, in the presence of Charles, and he never claimed it as his, but treated it as her's.

12th. To the twelfth interrogatory he says: Mrs. Tufts, in 1839 or 1840, did go on a journey to New Orleans, and beyond it. I heard her talk about this journey, in the presence of Charles, before she went; and not many weeks before she went. She told him the object of this journey, which was to visit her children. He said very little about it, and seemed to be indifferent about it; neither approving or disapproving it.

13th. To the thirteenth interrogatory he says: Soon after the death of his father Charles Tufts was appointed keeper of the magazines in Cambridgeport and Roxbury at a salary of seven hundred, or seven hundred and fifty, dollars per annum. He has also had a salary of five

hundred dollars as a clerk in a store on the T wharf. I dont know of any other income or property that he has had. His appointment to the charge of the magazines was procured by the influence and exertions of his step-mother, and myself, and some other friends. Mrs. Tufts took much interest in the appointment, and exerted herself in his behalf. Charles did not at all times attend personally to the receipt and delivery of powder at the Cambridge magazine, but Mrs Tufts, her children, and her hired help, have often acted therein for him. I do not know whether they did this gratuitously or not. I do not think he could have discharged the duties of that office without their help, because he was in Boston during the business hours of the day. The Roxbury magazine was taken care of by Mr. Fiske.

14th. To the fourteenth interrogatory he says: I have known the said Charles intimately since the death of his father. He always lived and boarded with the plaintiff till within two or three years past. He was from eighteen to twenty years old when his father died in 1825. He was treated as one of her family—like the rest of the children. He always acted for her in regard to the estate. I cannot say as to his receipting or paying bills for her. He lived in the house with her till 1842 or 1843.

15th. To the fifteenth interrogatory he says: I have frequently visited Cambridgeport on business, and have an extensive acquaintance in the neighborhood of the said premises. Mr. Tufts in his lifetime, Mrs. Tufts since his death, and the estate in question, were, and are generally, known to the inhabitants there. After the sale, and down to the 9th of September, 1844, it was generally known in the neighborhood that Mrs. Tufts had, or claimed to have, an interest in the premises, and that she managed and carried it on, and made improvements on it, and sold sand and gravel from it. I know this from my extensive acquaintance among the people in the neighborhood, among whom I have heard the subject often spoken of.

16th. To the sixth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: I never resided in Cambridgeport. I came to Worcester in April, 1843. I have been to Cambridgeport but very seldom since that time. For many years formerly I used to come to Boston, and Cambridgeport, and the neighborhood, thirty or forty times a year.

2d. To the second cross interrogatory he says: I do not know that the said Cutter has ever so sworn.

3d. To the third cross interrogatory he says: The agreement was verbal. There was no time stated. The time was unlimited. Nothing was said about ten years. Mr. Cutter said to her that he had bought it for the benefit of her and her children, so that she and her family might have a home there while she lived, and that she might redeem it at any time on paying him what he had paid, and interest. She said that she was very thankful, and that was what she wanted, and she

hoped she should be able to redeem it before a great while, but she did not know. I said something about his giving a bond, but he refused, and said his word was as good as his bond, or something to that effect.

4th. To the fourth cross interrogatory he says: There was no consideration, to my knowledge, for this agreement, but it was a favor or privilege on his part.

5th. To the fifth cross interrogatory he says: I do not know that she ever agreed to redeem the said premises. I considered it optional on her part, whether she should redeem the premises or not.

6th. To the sixth cross interrogatory he says: This was not the agreement. There was no limitation of ten years, or any other time. There was no agreement as to the times when the interest should be paid, but whenever the principal and interest were paid she was to have a deed.

7th. To the seventh cross interrogatory he says: Mr. Cutter bought the estate, but I don't know whether with his own funds or those of the copartnership. I supposed he bought it on Mrs. Tufts account from what was said between them after the sale. As to any agreement between them before the sale I do not know.

8th. To the eighth cross interrogatory he says: I do not know with whose funds Charles Tufts bought the estate.

9th. To the ninth cross interrogatory he says: I know the said agreement from my conversations with Mrs. Tufts, and Charles Tufts, and I am confident that what I have said of this agreement, and all I have said of it, was told by him or in his presence, and not denied by him. I cannot state anything in regard to this conversation in addition to what I have already done.

10th. To the tenth cross interrogatory he says: I never heard from Mrs. Tufts, nor from any person in her presence, that she was to have five years from the time Charles purchased the said estate to purchase it of him, or any other time.

11th. To the eleventh cross interrogatory he says: I never heard any such agreement in regard to the regular payment of rent or interest, taxes and repairs, or as to any forfeiture, if she did not so do. The agreement was that he was to take Mr. Cutter's place, as I have before stated. I cannot state anything further of the conversation than I have already done.

12th. To the twelfth cross interrogatory he says: There was nothing said as to Mrs. Tufts having any particular time in which to redeem the said estate.

13th. To the thirteenth cross interrogatory he says: I never knew of any consideration given by Mrs. Tufts for this agreement. She did not bind herself to purchase, or promise to buy within any stipulated time, but it was left optional with her.

14th. To the fourteenth cross interrogatory he says: I do not know that he had any power to compel her to purchase the estate.

15th. To the fifteenth cross interrogatory he says: I have stated all that I know on the subject of the betterments and improvements. I never saw her pay any money for them. I only know that both she and Charles always spoke of these betterments and improvements as

made by her. I have mentioned all of them that I know of. I have no reason to believe that Charles ever paid a dollar for repairs, betterments, or improvements, on his own account.

16th. To the sixteenth cross interrogatory he says: I don't know where the trees which she planted came from, or whether they were raised or bought.

17th. To the seventeenth cross interrogatory he says: The premises are in as good repair as when Mr. Tufts died, so far as I know.

18th. To the eighteenth cross interrogatory he says: I know the said Charles has never made any betterments or improvements from my being there very often, and knowing all that was going on, and from what was said in his presence or by him. The shed raised on the premises was not paid for by Charles to my knowledge. I never heard that the addition to the barn was made by him. I never heard of his putting any fencing upon the place and paying for it. I have heard her say that she had given him the use of two or three acres of marsh for some money he let her have, but I do not know about his letting it.

19th. To the nineteenth cross interrogatory he says: I never heard Anna Tufts deny that she had any interest in the premises, but always the reverse.

20th. To the twentieth cross interrogatory he says: I should think her pecuniary circumstances had been rather straitened since her husband's death. I do not know of any property of her's yielding her an income, except that place. I have heard of her having a legacy from her father.

21st. To the twenty-first cross interrogatory he says: I don't know that I ever conversed with Mrs. Tufts respecting this case, or my evidence therein.

22d. To the twenty-second cross interrogatory he says: The plaintiff's interrogatories have not been read to me, or by me, before my examination.

Before signing this deposition, the deponent desires to make the following addition to the sixteenth direct interrogatory:

Some time in 1835, 1836, or 1837, I heard Mrs. Tufts ask Charles to take the estate and pay her rent and carry it on, and relieve her from the burden. He declined, and said he would not have any thing to do with it, as he had enough else to do, and could not be troubled with it.

LEMUEL SMITH.

Sworn to before me, the thirty-first day of May, 1845.

GEORGE S. HILLARD, *Commissioner*.

Deposition of Samuel L. Cutter.

In the circuit court of the United States for the first circuit and district of Massachusetts, in chancery, between Anna Tufts, plaintiff, and Charles Tufts and Emerson Wheeler, defendants.

Interrogatories to be administered to Samuel L. Cutter, of the city of Boston, in said district, a witness to be examined in the above cause, on the part and behalf of the plaintiff.

1st. Whether or not do you know the parties, plaintiff and defendants, in the above entitled cause, or either and which of them; and, if yea, how long have you known them, or either and which of them? And are you in any way related to either and which of them; and, if yea, how to the plaintiff, and to the said Charles Tufts, one of the defendants?

2d. Whether or not you have been intimate in the family of the said Anna Tufts; and, if yea, whether you have often been at her dwelling-house in Cambridge since her husband's death, and how often; and whether or not the affairs and concerns of the family, and of said Anna and Charles, were freely communicated to you in the presence and hearing of the said Charles Tufts?

3d. Whether or not you were informed in the presence and hearing of the said Charles, or by him, or learnt from any conversation had in his presence and hearing, on what terms the said Anna kept the possession of and occupied the homestead formerly belonging to her late husband, Peter Tufts, while the title was held by Ammi Cutter, Cutter and Cummings, and Cutter and Perkins? If yea, please to state fully and particularly what you have so heard and understood and been informed of, which was not at the time denied by the said Charles.

4th. Whether or not the said Anna since her husband's death, and, if yea, at or about what time or times has made any alterations, improvements, additions, or repairs on the premises? If so, please to state what were the alterations, additions, repairs, or improvements made by her; and what amount she has expended therein, as nearly as you can estimate the same.

5th. Whether or not you have heard the said Anna at any time or times, and how lately, and when, in the presence and hearing of the said Charles Tufts, speak of any alterations, improvements, or betterments, which she had made or intended to make on the lands or in the buildings comprising the homestead aforesaid; if yea, what improvements or betterments; and whether or not she spoke of them as for her benefit or for the benefit of any one else; and whether or not the said Charles, on any such occasion, denied her right to make such alterations, improvements, or betterments, or ever on any such occasion suggested or asserted that she had no interest in the premises to authorize her to make or plan such alterations, improvements, or betterments, or deal with the premises in such way; or whether or not, as far as you know, he ever interfered with her plans or directions; and, if so, how; if she made or gave any in regard thereto?

6th. Whether or not the said Anna at any time or times, and, if so, in what years, and how lately, and to what extent, has sold any gravel or sand, being part of the said homestead; and whether or not the same has been removed by the purchasers with the knowledge of the said Charles; and whether, if so, he has objected or assented thereto; and whether or not the said Anna has at any time or times, and, if so, when and how often, had any and what conversation, in the presence and hearing of the said Charles, relative to any such sale or sales of gravel

or sand; and whether he has, on such occasion, made any objection to the doings of said Anna, or said anything and what relative thereto; and whether or not any credits of the said Charles, in his account annexed to his answer and credited as cash, are for moneys received by him for gravel or sand sold from the premises? Please look at the accounts and declare.

7th. Whether or not at or about December, 1839, or at any and what time, the said Anna Tufts left Cambridge, on a journey to New Orleans or elsewhere in that part of the United States, and where, and for what purpose; and, if so, was the object or purpose of her journey known in her family; and particularly was it known to the said Charles; and did he or not then live with her at Cambridge? Whether or not at or about this time any conversation was had, or anything was said, between the said Anna and the said Charles in your presence, touching any claim on her part of any right, title, or interest in the said homestead and premises, or touching any conveyence to be made to her thereof in any case? If so, please state the time, place, and occasion, and what was said by each party, fully, particularly, and minutely, according to your best recollection; and declare whether you clearly and distinctly recollect the same.

8th. What has been the occupation or employment of the said Charles, since the death of Peter Tufts, the husband of the said Anna; and what emolument has he received from any employment or occupation; and had he any other, and, if so, what property, which was not derived from such occupation or employment? If you say that at any time he had charge of the Massachusetts Powder magazine, please to state whether that office was procured by his own personal exertions, or by the exertions, intercessions, and influence of any other person, and if so, by whose exertions chiefly; and whether or not he has personally received and delivered powder at said magazine generally, or whether some other person, and, if so, who has done it, while he has been in that office, or had that charge.

9th. Whether or not the said Anna has ever leased the premises to any person or persons; and, if so, to whom, and how often, and for what terms or term of time; whether or not the said Charles has known thereof at or about the time; whether he then lived in the family of the said Anna; and whether or not, as far as you know, he interfered or objected to the doings of the said Anna herein, and, if so, how; and whether or not any conversation has been had by him, or in his presence and hearing, touching any such lease or any tenant; and, if yea, whether or not he has ever, as far as you know, asserted or suggested that the said Anna had no right to lease the same, has in any way objected to her leasing the same, or claimed to have the right as proprietor to let the same; and, if yea, what has he said or done to that effect?

10th. Whether or not the said Anna has had any dispute with any person who was or had been a tenant of any and what part of the premises; if yea, when and with whom; and whether or not the same was referred to the arbitration of any, and if any what, referees; and whether

or not the defendant, Emerson Wheeler, was one of the referees; whether or not the said Charles attended as a witness before the said referees, on behalf of his mother, and did testify in favor of her claims, or how otherwise; whether or not you have seen the agreement between said Anna and any such tenant, to submit any such dispute to any and what referees; if so, was it signed by and in the handwriting of said Anna and such tenant or not; and will you procure the same to be identified by the commissioner, or refer to it specifically? And state fully and particularly what you know relative to the premises. Please look at the paper writing marked E, and say if you know the handwriting of the person who wrote it, either from seeing such person write, or from having seen his handwriting, or how otherwise; and, if yea, declare if you know in whose handwriting the said paper writing marked F, now exhibited to you by the commissioner, is written; and whether you know the object or purpose of writing the same, or any thing relative thereto material to the subject of this your examination, or that may tend to the benefit of the plaintiff in this cause. If so, set forth the same fully and circumstantially. Please look at the books of account now shown to you, and say if you know whose they are, and in whose handwriting the charges of gravel are, and identify the charges to which, if any, you testify.

11th. Whether or not the said Charles has ever, as far as you know, "before A. D. 1842, claimed to own the entire interest in the said "homestead and premises; or made any repairs, improvements, or bet- "terments thereon; or let or attempted to lease the same; or demanded "or received any sent therefor; or occupied or improved the same un- "der any pretence that the same was his own property; or spoken of, "or treated the same in any, and which, way as his own property; "or how otherwise? And if yea, what has he said or done before that time to this effect?

12th. Whether or not the homestead aforesaid is generally, or to what extent, known in Cambridgeport and the vicinity; whether or not the late Peter Tufts and the said Anna, or either of them, were generally, or to any and what extent, known in that part of Cambridge called Cambridgeport; whether or not it was matter of common or general, or any, and if any what, notoriety, in the vicinity, or particularly in Cambridgeport, that the said Anna claimed to have some interest in the said homestead other than as tenant thereof? And if yea, please to state if there were or are any reasons for its being a matter of notoriety; and whether it was so on and before 9th September, 1844; whether or not it was a matter of any and what notoriety then, or at any and what time, that she had managed or carried on the farm; or sold gravel and sand; or made betterments or improvements thereon; or disposed of the produce of the premises; or leased any part thereof.

13th. Whether or not, in the month of September, 1844, you were returning home from a journey? And if yea, whether or not you met said Anna and her daughter Adeline Dowell, in a chaise or carriage coming to meet you? And if so, where did you meet them; and when, and on what particular day of the month, and time of the day; and is there any, and if any, what circumstance, from which you can recol-

lect the day; and did they, and if so, what did they, at the time declare to be their object in coming to meet you; or what, if any thing, did they want of you?

Lastly. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

RAND, WARREN & FISKE,
Solicitors for plaintiff.

Cross interrogatories to Samuel L. Cutter, on behalf of the defendants.

The defendants except and object to the second, third, fourth, fifth, sixth, seventh, and eighth interrogatories, as seeking to prove a contract for the purchase of the real property, or a trust relative to the same by parol evidence; they object to the eighth interrogatory as irrelevant and impertinent; to the tenth interrogatory, as irrelevant and inquiring in regard to a dispute to which neither of the said defendants was a party. To the eleventh interrogatory, as asking for what cannot be within the witness' own knowledge, and are mere matters of inference and opinion; to the twelfth interrogatory, as asking for matters of hearsay; and to so much of the plaintiff's said interrogatories as are marked with double lines in the margin, as leading.

1st. If, in answer to the third interrogatory, you say that said Anna Tufts claimed or had any right to purchase said premises, of said Charles Tufts, on any terms, please to state when and where any conversation took place in which she made such a claim, and who were present thereat; and the whole conversation, if said Charles was present; and what said Charles said; when and were did the last conversation take place in said Charles' presence; and what was said by all parties present?

2d. Did said Anna claim any such right, in any such conversation, under a verbal or written contract; and who was it made with?

3d. How long was such right to continue; who told you, in said Charles' presence, how long it was to continue; when, where, and who was present?

4th. What consideration did said Anna give for such right; who told you in said Charles' presence; when, where, and who was present?

5th. Did said Anna bind herself or promise in any way to purchase said premises of said Charles Tufts? If yea, when, in what manner, and for how long; who informed you in said Charles' presence; when, where, and who was present?

6th. Was it optional with said Anna whether to purchase said premises or not; who informed you in said Charles' presence; when, where, and who was present?

7th. If you say it was not optional, how could she have been compelled to pay?

8th. If you say she was bound to purchase said premises within that

time, in what manner did she agree to make the payment; who informed you in said Charles' presence; when, where, and who was present?

9th. Did she agree or promise to pay the interest or rent regularly, or to pay the taxes on the premises? If she failed to pay them, was it agreed that she should forfeit her right; if she remained on the premises ten or fifteen years, without paying interest, was it agreed that her right to purchase the said premises should remain the same; who informed you in said Charles' presence; when, where, and who was present?

10th. Did said Charles Tufts buy the said premises with his own funds and his own credit; have you not heard said Anna say that he did, or words to that effect; or heard him say so in her presence, without her denying it?

11th. If, in answer to the fourth interrogatory, you say that said Anna has made any repairs, betterments, or improvements in the premises, please state particularly how you know what money she paid for the same or any part thereof; how much have you seen her pay for the same, and to whom; and what mechanics made each of the repairs, betterments, and improvements you have named? Please state particularly every betterment and improvement you say she has made, and the value of it; and how you know she ordered it; and how you know she paid for it; and to whom?

12th. Have you not some reason, and what, to believe that the said Charles has paid for most, if not all, or for some of the repairs, betterments, and improvements put on said premises since he had the title to them?

13th. If, in answer to the plaintiff's sixth interrogatory, you say said Anna has sold sand and gravel from said premises, please say when and where you have seen her make such sales, and to whom, and how much, and how many times; and what amount each time?

14th. Do you not know that said Charles Tufts has, for some and how many years, denied that the said Anna had any claim to purchase the said premises; did he not deny any such right before 1842; and how long before?

15th. If, in answer to the eleventh interrogatory, you say said Charles made no repairs, improvements, or betterments before 1842, how do you know he made no such repairs, improvements, or betterments?

16th. Did not said Charles let several acres of marsh land, part of said premises, before 1842, and receive the rent therefor?

17th. What have been the pecuniary circumstances of said Anna, since the death of said Peter Tufts; have they been straitened, or otherwise?

18th. Has said Anna Tufts, since said Peter's death, to your knowledge had any, and if any what, property yielding any, and if any what, income; when did she own such property; how long; does she still own it; what is its value; how do you know she owned it, or owns it?

19th. Have you ever lent money to said Anna Tufts, or paid money for her or at her request; if yea, when, how often, how much in all; is

she now indebted to you; if yea, how much; was she indebted to you on the first of January, 1845; if yea, how much?

20th. Have you any interest in the event of this suit; have you ever paid, or agreed to pay, any money to carry on the same; if yea, how much; are you to have any benefit if said Anna succeeds in this suit; if yea, what; has said Anna agreed to pay you anything or do anything for your benefit in that event?

21st. Have you conversed with said Anna Tufts about this case, or the evidence you are to give in it; if yea, when, how many times, and how long?

22d. Have the plaintiff's interrogatories in this case been read to you, or by you, before you were examined by the magistrate who is taking your deposition; if yea, when, and who was present?

23d. Did not Cutter and Perkins, while they owned the said premises, advertise them for sale; did you not see the advertisement at the time?

24th. Have you not seen at different times, and when, written offers made by said Charles Tufts to said Anna Tufts to sell her portion of the said premises; did not she show you one or more of these offers, and consult you about them; has she not, at one or more times, asked you to assist her in raising money to enable her to accept these offers?

25th. If in answer to the thirteenth interrogatory you say that you met said Anna Tufts and her daughter coming to meet you while returning home from a journey, please to say what the journey was, how many days you had been absent from home, what day of the week it was when you left home, and what day of the week it was when you returned; what was the hour of the day when you met them, and who was with you; what was the state of the weather when you met them, wet or cold, or hot or dry; are you sure it was before or after September 9, 1844, and what makes you sure; what persons did you converse with while absent from home on said journey, and in what places; and at what public houses did you put up, if any; did you make more than one journey in September, 1844?

26th. Has not said Anna informed you that said Charles made large sales of sand or gravel from said premises, in the years 1842 and 1843, and received and kept the money for the same, and not credited her with the same?

Plaintiff objects to the fifth, sixth, seventh, and ninth cross interrogatories, as inquiring as to opinion in matter of law.

Answers of Samuel L. Cutter to the interrogatories hereto annexed on the part of the plaintiff.

1st. To the first interrogatory he says: I have always known Mrs. Tufts and Charles Tufts; I have known Emerson Wheeler five or six years; Mrs. Tufts is my sister, and Charles Tufts is my cousin.

2d. To the second interrogatory he says: I have been intimate in the family of the said Anna Tufts; I have often been in the family of Mrs. Tufts since her husband's death, sometimes once a week or fortnight,

and sometimes once a month; the affairs of the family, and of the said Anna and Charles, were freely communicated to me in the presence and hearing of the said Charles.

3d. To the third interrogatory he says: I have often heard it stated, in the presence and hearing of Charles, and not denied by him, that the said premises, when paid for at the auction price, principal and interest, were to be Mrs. Tufts'; I have often heard her and others say this in his presence and hearing, and he never denied or objected to it; I do not know that I ever heard him say so, as he is a man of very few words.

4th. To the fourth interrogatory he says: Mrs. Tufts has made alterations and improvements in the said premises since her husband's death; she has had the kitchen and shed raised, and a barn or carriage-house added, and also had a fence put round the house; she has had the house painted and repaired; I cannot tell the times when these alterations and improvements were made, nor can I estimate the amount expended upon them.

5th. To the fifth interrogatory he says: At or about the times when these several alterations and improvements were made, I have heard Mrs. Tufts speak of them, in the presence and hearing of Charles Tufts, as made for her benefit; the said Charles never denied her right to make such alterations and improvements, and never asserted or suggested that she had no interest in the premises to authorize her to make and plan such alterations and improvements; and he never, to my knowledge, in any way interfered with her plans and directions; it is some years since I heard her speak on this subject.

6th. To the sixth interrogatory he says: On this point, I only know that sand and gravel have been sold, from time to time, from the said premises, but I do not know by whom; I presume it has been removed with the knowledge of Charles, but I cannot swear positively; I have heard conversations on the subject, in the presence and hearing of Charles, and never heard him object to anything she had done therein; I am not able to answer as to the items of credit in the account annexed to Charles' answer; to do this, I should be obliged to compare it with his books, to which I have not access.

7th. To the seventh interrogatory he says: In December, 1839, the said Anna Tufts left Cambridge, on a journey to New Orleans, to visit her children and get employment in the St. Charles Hotel; the object of her journey was known to her family, and to the said Charles Tufts; he then lived with her at Cambridge; I was present at a conversation which took place between them, just as she was leaving her house to go on this journey; she asked him to give her a written obligation to convey the premises to her, but he declined, and said there was no necessity for it; at the close of it, and when we were in the entry, near the front door, Mrs. Tufts took each of us by the arm, and said to Charles Tufts, "Now I want you to say, in the presence of Samuel, that when I pay you for this place, dollar for dollar, what it costs, it

shall be mine;" he replied, "of course it will;" I have a clear and distinct recollection of it.

8th. To the eighth interrogatory he says: The said Charles Tufts, after the death of his father, obtained the situation of keeper of the Powder magazine in Cambridgeport; this was through the influence and intercession of his mother and Mr. Smith, and not by his own exertions; from 1830 to 1833 he used occasionally to write for me; in 1834, he went as clerk to Edmund Wright, and has been with him ever since; I think he has a salary of four hundred dollars a year from him; he used to have six hundred dollars a year for taking care of the Powder magazine; he is now paid for what he does; he has no other property or sources of income that I know of; Mrs. Tufts and her children, and the hired men on the place, usually received and delivered powder there, as Charles Tufts was engaged in town during the business part of the day; I think he had six hundred dollars a year for taking care of the magazine, but I can't swear to the amount.

9th. To the ninth interrogatory he says: Mrs. Tufts let the place for one year to James Stone, on shares, in 1837 or 1838; Charles Tufts knew of it at the time, and he was then living in her family; so far as I know, he never interfered or objected to her doings therein; the leasing of the premises has been talked of in his presence and hearing, and, so far as I know, he never asserted or suggested that Mrs. Tufts had no right to lease them, and has never objected thereto, or claimed to have the right, as proprietor, to let them.

10th. To the tenth interrogatory he says: Mrs. Tufts did have a dispute with the said James Stone, in 1837 or 1838, growing out of her letting to him of the said premises on shares; it was referred to the arbitration of Ephraim Buttrick, Edward Cutter, and Emerson Wheeler, who is one of the defendants; the said Charles Tufts attended as a witness, and testified before the referees in favor of his mother's claims; I have seen an agreement between the said Anna Tufts and the said Stone to submit their dispute to the said referees; it was signed by Mrs. Tufts, and had the signature of Mr. Stone, but I cannot swear to his handwriting; the paper marked E, now exhibited to me, is the said agreement; I cannot swear in whose handwriting the paper is; the paper marked F, now exhibited to me, is in Charles' handwriting; I know nothing about the said paper, except what appears from the face of it; and, as to the paper marked E, I only know that Mrs. Tufts' signature is in her handwriting; the books of account now shewn me, marked G and H, are those of Mrs. Tufts; the following charges of gravel are in the handwriting of Charles: on p. 109, (of book G,) to Dexter Fairbanks; on p. 131, of same book, to Vinal; on p. 139, of same book, to N. Childs; on p. 145, of same book, to F. Coolidge; on p. 181, of same book, to Jos. Jennings; also a charge in Jas. Stone's account, in book H, for 18 loads; also a charge to Mark Biles, on p. 145 of book G; also the first two items in the account against Charles Valentine, on page 110 of book G; also the charge to David Stone, on p. 99 of book G; also a charge to J. Wyeth, on p. 95 of book G;

also a charge to E. Kimball, on p. 91, of same book; also a charge to Low & Kingsley, on p. 87, of same book; the charges for gravel sold before the death of Mr Tufts are mostly in his handwriting.

11th. To the eleventh interrogatory he says: The said Charles has never, so far as I know, before 1842, claimed to own the entire interest in the said homestead and premises, or made any repairs or improvements thereon on his own account, or let or attempted to lease the same, or demanded or received rent therefor, or occupied or improved the same, under any pretence that the same was his property, or spoken of or treated the same as in any way his property.

12th. To the twelfth interrogatory he says: The said homestead is generally known in Cambridgeport and the vicinity. The late Peter Tufts and Mrs. Tufts were, and she is, generally well known there. It was generally known there that she claimed to have some interest in the said homestead other than as the tenant thereof. The reasons were, that she had always had possession and lived there undisturbed. It was so on and before September 9th, 1844. It was a matter there at all times since her husband's death of general notoriety, that she had managed and carried on the farm, had sold gravel and sand, made betterments and improvements, disposed of the produce of the premises, and leased them to the said Stone.

13th. To the thirteenth interrogatory he says: In the month of September, 1844, I was returning home from a journey, and I met Mrs. Tufts and her daughter Adeline Dowell, in a chaise, coming to meet me. I met them about five miles this side of Framingham, on the road to Weston. It was on the 9th day of September, about four o'clock, P. M. I kept a memorandum of the events and expenses of each day's journey, and I know from that that this was the day. I asked them where they were going, and Mrs. Tufts said they were going after me, that Charles had sold one half the property, and she wanted my advice.

14th. To the fourteenth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he say: The said conversations took place in Mrs. Tufts' house. I cannot remember the whole conversations, or who were present thereat, or what the said Charles said, any farther than I have already stated. I have no doubt that I have been present at more than fifty such conversations. The last one which I now remember was the conversation previous to her going to New Orleans, of which I have before testified.

2d. To the second cross interrogatory he says: She claimed such right under a verbal contract, made with Mr. Ammi Cutter.

3d. To the third cross interrogatory he says: There was no time specified for the continuance of such contract, and none was ever mentioned in any such conversation.

4th. To the fourth cross interrogatory he says: Mrs. Tufts gave no pecuniary consideration, and none was ever mentioned in any such conversation.

5th. To the fifth cross interrogatory he says: There was no written obligation on the part of Mrs. Tufts to purchase the premises of Charles, but she considered herself bound to purchase them, whenever she was able to do so, and in the mean time to pay interest quarterly; and if any part of the property were sold, the price was to go towards reducing the price of the estate to her. I have often heard her say this in the presence of Charles, at her house, and in the presence of members of her family, and at various times.

6th. To the sixth cross interrogatory he says: She never considered it optional on her part whether to purchase the estate or not. I have been so informed by her, at her house, in the presence of Charles, and other members of the family, at different times.

7th. To the seventh cross interrogatory he says: I cannot say; I do not know how it would have been considered in law.

8th. To the eighth cross interrogatory he says: There was no time specified for the performance of the agreement. As soon as she could get the money and pay for the estate, it was to be her's. She never agreed to pay at any particular time. I have been so informed by her, at her house, in the presence of Charles and other members of the family, at different times.

9th. To the ninth cross interrogatory he says: She was to pay interest regularly, and also the taxes, if she could. If she failed to pay, there was no agreement that she should forfeit the right. I presumed that if she remained on the premises ten or fifteen years without paying interest, her right would still remain. I don't know that I ever heard her or any one say this distinctly, but nothing was ever said as to any limitation of time.

10th. To the tenth cross interrogatory he says: I don't know with what means the said Charles Tufts bought the said premises. I never heard him or Mrs. Tufts say anything upon the subject.

11th. To the eleventh cross interrogatory he says: I do not know anything further about the betterments, improvements, and alterations than I have already stated. I can give no more particular account of them. I never heard her give orders to any mechanics or saw her pay them any money. I know that they were made by her orders and directions, from the conversations had on the subject in Charles' presence. I cannot give the names of the mechanics who did them, except Mr. Wise, who did carpenters' work.

12th. To the twelfth cross interrogatory he says: I have no reason to believe that the said Charles has ever paid for any repairs, betterments, or improvements, which he has not charged Mrs. Tufts in account.

13th. To the thirteenth cross interrogatory he says: I have no knowledge as to the sales of sand and gravel further than I have already stated.

14th. To the fourteenth cross interrogatory he says: To my knowledge, the said Charles Tufts has never denied her right to purchase the said premises, till the date of this suit.

15th. To the fifteenth cross interrogatory he says: I know from con-

versation between the said Charles and Mrs. Tufts, that he never made any repairs or improvements upon the premises, upon his own account.

16th. To the sixteenth cross interrogatory he says: I do not know as to his letting the said marsh land.

17th. To the seventeenth cross interrogatory he says: The pecuniary circumstances of Mrs. Tufts, since her husband's death, have been straitened.

18th. To the eighteenth cross interrogatory he says: Mrs. Tufts inherited about twenty-two hundred dollars worth of property, real and personal, from her father's estate, nearly all of which she sold, and applied the proceeds to her own use. I know this as being one of the heirs. Besides this, she has had no other property or income, except what she got from the farm and from her own industry. I do not know how much she has left from her father's estate.

19th. To the nineteenth cross interrogatory he says: I have lent money to Mrs. Tufts, and paid money for her, and have let her have fuel. I cannot tell the exact times, or how often; from two hundred to two hundred and fifty dollars in all. She is now indebted to me on account thirty-one and a half dollars, and was indebted in the same amount January 1, 1845. My firm has an account against her, due January 1, 1846, amounting to fifty-seven dollars twenty-three cents, and we also hold a note of 125 dollars, of Elbridge Tufts, with her endorsement. I mean my late firm of Cutter & Boyd.

20th. To the twentieth cross interrogatory he says: I have no interest in the event of this suit. I have paid twenty dollars of the expenses of this suit, which Mrs. Tufts has repaid to me. I have not agreed to pay any of the expenses. I am to have no benefit if she succeeds in this suit, and she has not agreed to pay me anything or do anything for my benefit, in that event.

21st. To the twenty-first cross interrogatory he says: I have conversed with Mrs. Tufts about this case and my evidence therein, frequently; but I cannot say when, or how many times, or how long.

22d. To the twenty-second cross interrogatory he says: The said interrogatories have not been read to me or by me, before my examination.

23d. To the twenty-third cross interrogatory he says: The said premises were never advertised for sale to my knowledge.

24th. To the twenty-fourth cross interrogatory he says: About three years ago, Charles Tufts made a written offer to Mrs. Tufts, which I saw, proposing to convey the estate on the east side of the road to her on the payment of five thousand dollars. I think these were the terms. She shewed me this offer and consulted me about it. She has not asked me to assist her in raising money to enable her to accept this offer. I have no recollection of any other written offer on his part.

25th. To the twenty-fifth cross interrogatory he says: The journey was undertaken for my wife's health. We travelled a very short distance at each time, with frequent intervals of rest. We got no farther than Hopkinton Springs. We started from home on the fifteenth day of August, and met Mrs. Tufts on the 9th day of September. We left

on a Thursday. We returned on the fifteenth day of September. I don't remember what day of the week it was. I met them about four o'clock, P. M. My wife and my eldest child were with me at the time. The weather was pleasant and warm. I am sure it was on September 9, 1844. I am sure from the memorandum which I kept. I conversed with a great many persons in various places, whose names I cannot remember. I put up at the upper house in Waltham, at Parker's; in Framingham, at Norcross's; in Hopkinton, at Brigham's; in Westborough, and at Northborough, at the Marlborough Lake hotel, and at Jones's at Weston. I made only one journey in September, 1844. I now remember that we returned home on a Wednesday.

26th. To the twenty-sixth cross interrogatory he says: Mrs. Tufts has not informed me, to my knowledge, that Charles made large sales of gravel in those years, and received the proceeds without crediting her with them.

SAM. L. CUTTER.

Sworn to before me, the first day of August, 1845.

GEORGE S. HILLARD, *Commissioner*.

August	13th,	took with me in bills	- - -	$255.00
	15th,	pd. Catherine	- - - -	5.00
	17th,	" W. Cambridge Hor.	- - -	75
	"	" Cigars 50. Brandy 20	- -	70
	18th,	" Waltham	- - - -	3.75
	19	" Wayland	- - - -	3.25
	20	" Framingham	- - - -	3.85
	"	" Hopkinton	- - -	68
	22	" Hop. Springs,	- - -	5.67
	23	" Railroad from and to Westboro'	-	2.00
	"	" Cigars	- - - -	45
	26	" Anniseed,	- - - -	5
	31	" Westboro'	- - - -	25.68
Sep.	3	" Northboro'	- - - -	7.68
"	4	" Marlboro'	- - - -	3.00
"	9	" Framingham	- - - -	13.25
		Weston	- - - -	3.75
				$79.51

Boston, October 8, 1845. I certify that the above was compared with the original, written upon a set of ivory tablets, exhibited to me by Samuel L. Cutter, a witness examined by me in the execution of a commission, in Tufts vs. Tufts and al., and referred to by him, and that the same is a correct transcript therefrom.

GEO. S. HILLARD, *Commissioner*.

Deposition of Elbridge Tufts.

In the circuit court of the United States for the first circuit and district of Massachusetts, in chancery, between Anna Tufts, plaintiff, and Charles Tufts and Emerson Wheeler, defendants.

Interrogatories to be administered to Elbridge Tufts, of Gorham, in the State of Connecticut, a witness to be examined on the part of the plaintiff.

1st. Whether or not do you know the parties, plaintiff and defendants, in the above entitled cause, or either and which of them? And if yea, how long have you known them, or either and which of them? Are you in any and what way related to the plaintiff, and to the defendant Charles Tufts? Have you lived with your mother, and for what part of the time, since your father's death? And how often have you been there when residing elsewhere?

2d. Whether or not you were present at the sale at auction in or about 1828, of the homestead and premises where your mother has lived in Cambridge? If yea, did you see Charles Tufts there at the time; and where did the sale take place; and whether or not your mother has occupied the premises ever since the said sale?

3d. Whether or not before 1842, you ever had any conversation with the said Charles, or heard anything said by him, or in his presence, and not by him denied, respecting any right, title, interest, or claim of your mother, in or to the said homestead or premises, or touching any conveyance thereof to be made to her on any terms or condition? If so, please to state what conversation you have so had, or heard? When, and if more than once, when first and when last, before A. D. 1842, you had or heard the same? And whether, in any such conversation he spoke of any, and if any, what agreement between himself and your mother? And how frequently you have, if ever, heard the same repeated? Or anything and what similar thereto?

4th. Whether or not, in or about 1841, or any other and what time, a barn or an addition to a barn was built on the premises? If so, who was or were the carpenter or carpenters employed? Who employed him or them, and boarded or lodged them? By whom and how were they or was he paid? Who directed and superintended the building of the said barn, or addition to a barn? For whom was it built? "Whether or not did the said Charles interfere in the building thereof, or give any order or direction, or claim to give any in relation thereto, on his own account? Did he speak of, or treat it as built for himself, or for any other and what person, and if so, what did he say relative thereto?" Did the said Charles furnish any, and if any, what part of the materials? And at whose request? And how were they procured? And if paid for, in what manner were they paid for? Whether or not there was a stone wall or foundation built for such barn or addition to a barn, or for any other and what building on the premises? If yea, when? Who directed therein? And for whom was it done, and who was the mason or stonelayer employed? And was he paid by any one, and whom, and how? Whether or not, during the building of any such barn, addition to a barn, or building on the premises, you had any conversation with the said Charles, touching the making of any such improvements, or touching the paying of any, and if any, what money and interest by your mother to the said Charles? If yea, what conver-

sation was had, and what did the said Charles say, on any such occasion, touching the same?

5th. Whether or not you have known of any other repairs, additions, or improvements on the buildings on the premises since your father's death? If so, what improvements, additions, or repairs? And when made? And who was employed to make the same? And by whom was the person or persons employed paid? "And for whom, and under whose orders or direction and superintendence were the same made? And whether or not did the said Charles interfere, or give or claim to give any order or direction therein, on his own account?" And whether or not were any improvements or betterments made on the lands of the premises since your father's death, by planting trees or otherwise? If so, when? What improvements or betterments? To what extent? Who was employed, and by whom, and for whom therein? "And by whom and how was the person or persons employed paid? And did the said Charles interfere, or claim to give any order or direction therein, on his own account?

6th. "Whether or not your mother has leased any, and if any, what part of the premises to any, and if any, what persons, on any, and if any, what terms? If so, whether or not the said Charles ever denied or disputed the right of your mother so to do, or to the avails of any such lease?" Whether or not you had or heard any conversation with the said Charles, respecting any moneys for rent of any marsh land? If so, what moneys for rent of what land, and what was said relative thereto by said Charles? Did he claim them as belonging to himself? "Or speak of any manner in which they ought to be applied by your mother or by himself? And what, if anything, did he say relative thereto? Whether or not did the said Charles interfere or claim to order, or direct, as to the terms of any lease made of the premises or any part thereof before 1842? Whether or not did he before that time ever speak of your mother as his tenant, or as hiring the premises of him? Or receive or claim anything of her, or of any one else on his own account as rent of the premises? Or in any, and if any what, way claim, or assume or pretend to be the sole owner of, and exclusively interested in, the premises? "Whether or not, since your father's death, and before the period last referred to, the said Charles has interfered or claimed to interfere either in the carrying on and managing the farm and premises, or making betterments or improvements thereon on his own account? And whether or not he has acted therein, and if so to what extent, for or under the directions of your mother? And if so, how long he so acted, and whether or not this was a matter of any and what notoriety?"

8th. Whether or not the said Charles has said anything to you, or in your presence, respecting any conditions on which, or purpose for which, Ammi Cutter or he held a deed of the homestead and premises? If so, did he or not ever refer to the conveyance to himself, in speaking of that of Cutter, or to that of Cutter in speaking of that to himself; or speak of holding the premises on different or similar conditions? And what

did he say relative to the matters referred to in this interrogatory? Please to state fully and particularly, and whether you had or heard any conversation with him more than once, in which anything of the like import, and what, was said.

9th. Whether or not, since your father's death, any and what gravel or sand has been sold from the said homestead and premises? If so, with whom were the bargains for gravel or sand usually made? If you say that the said Charles took any part in the making of sales, please to state whether before 1842 he claimed or pretended to make any such sale on his own account? And whether or not, if he received any money therefor, he credited your mother therefor, or delivered the money over to her in any instance, or usually, or retained it himself or how otherwise? Please look at the account books now exhibited to you, and marked by the commissioner, and declare whether or not they are the account books of your mother, or part of them. If yea, please to state whether you have seen the said Charles write, and know his handwriting? And whether or not the charges therein since your father's death, to divers persons, in any one of the said books, for gravel, are in the handwriting of the said Charles; or any and which of them? And whether or not these charges were for gravel taken from the said homestead and premises? Whether or not Joseph A. Holmes had any gravel from the premises? Whether or not the said Charles, for any and what time, kept your mother's books, and had free access to her accounts and papers, or how otherwise? And whether or not you have seen any accounts or account between your mother and the said Charles, rendered to her by the said Charles, which are now lost, or cannot be found after diligent, or any and what, search therefor? If so, when and where did you last see the same? And at or about what time were the same accounts, or was the account, rendered to your mother? Please to look at the paper writing marked F, and declare, if you know, in whose proper handwriting it is? And whether you know it from having seen the person write, or otherwise, and how, knowing his handwriting? And declare, if you know, when and for what purpose, and on what occasion, it was written. And state all which you know respecting it. Please also to look at the books of account now exhibited to you, and declare, if you know, whose they are, and in whose handwriting the charges of gravel and sand since 1826 are, and identify by reference the charges to which you refer.

10th. If you say you have seen any such account or accounts rendered to you by said Charles, and now lost, please declare whether or not you can recollect how they were, or it was, made out? And with what your mother was charged? And whether or not there was any charge to your mother of any, and if any, what sum as paid or secured to be paid for the premises? And whether or not there was any and what charge of interest? Please to state fully and particularly all which you recollect relative thereto, and whether your recollection of any and what charges is distinct or not.

11th. Whether or not the said Emerson Wheeler, formerly, and if

so, when and how long time, lived in Cambridgeport? And how far from the premises? Whether or not H. M. Chamberlain, William Hovey, jr., and Joseph A. Holmes, or either and which of them, have lived, and for what length of time, in said Cambridgeport? And how far from the premises? Whether or not your mother was generally or how extensively known in the Cambridgeport or the vicinity? "If you say your mother carried on the farm, or made betterments or improvements thereon, or sold gravel therefrom, state whether or not it was a matter of any, and if any, what notoriety in the said Cambridgeport, or in the vicinity of the homestead and premises; and if at all, how extensively was it known there, that your mother carried on the premises, sold gravel therefrom, or made improvements or betterments thereon?"

12th. Whether or not the said Wheeler, on any and what occasion, in the month of September 1844, or about that and what time, called on you or accidentally met you, and if yea, which, and had any conversation with you respecting purchasing gravel from the said homestead, or purchasing any of the lands? If yea, please to state the whole conversation in the order in which it occurred, as nearly as you can, with all the circumstances. "And on what day and what time of the day the same occurred? Whether or not the said Wheeler, inquired who held the deed of the premises? And if so, what, if any, reply was given to the inquiry? And whether or not he inquired, after or before this, whether the said Charles could give a good title to the premises?" And if so, what reply did you give? And had you any, and if any, what reason for giving any such reply? Whether or not in the course of the conversation, and if so, in what part of it, inquired what was the price of gravel, or of any portion of the sand, or whether he could purchase any, or anything of like import? If so, what was his inquiry? And what answer was given? And did you refer him to any person or persons, and if so, to whom? And what was said relative thereto? State particularly what day in the month you held, or had any such conversation, and the reason, if any, you have for remembering it.

13th. Whether or not your mother attempted to raise any money by mortgage of the premises, at any and what time or times? And for what purpose? And whether or not did the said Charles know of any such attempt? If yea, whether or not he delivered the deeds of the premises, and what deeds, to your mother, or to you for her? If so, whether it was for any such or what purpose? And how long did you or she keep the deeds? And whether or not it was with the assent of the said Charles? And at or about what time did she or you last have the deeds, for any such or other and what purpose, known to said Charles? And whether or not you had any conversation with the said Charles, or heard any between said Charles and your mother, on any such occasion or occasions? And if so, what was said by the said Charles, or in his presence, and not denied by him? And whether or not was such money to be borrowed for your mother or for said Charles?

14th. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this

cause, or either of them, or that may be material to the subject of this your examination? Or to the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

RAND, WARREN & FISKE,
Plaintiff's Solicitors.

Cross interrogatories on behalf of the defendants to Elbridge Tufts.

The defendants except and object to the plaintiff's interrogatories, as seeking to prove a contract for the sale of real property, or a trust in relation to the same by parol evidence; to the eleventh interrogatory, as asking for hearsay evidence; and to so much of said interrogatories, as are marked with a double line in the margin, as asking leading questions, and calling for matters of opinion and inference.

1st. What is your age?

2d. Have you ever resided in New Orleans? If yea, when? And for how long? When did you cease to reside with your mother at Cambridgeport, and where have you resided since that time?

3d. Have you not heard Charles Tufts say in your mother's presence, that he only agreed to allow her to purchase the said premises for five years, from the time when he bought them? Or something to that effect; and how many times, and when, and where, either before or since 1842?

4th. Have you not heard said Charles Tufts deny that your mother had any claim on him to purchase the said premises? If yea, when, and where, and how often, both before and since 1832? And who was present?

5th. Has there not been a controversy of some years, and how long standing, between said Charles and your mother, as to a claim she made of a right to purchase the said premises of him? Has he not denied her claim many times in your and her presence?

6th. Has not said Charles Tufts rendered yearly accounts to your mother, almost every year, for many years? Was not the last account he rendered about January 1st, 1843? Did he not render such accounts about January 1st, 1840, January 1st, 1841, and January 1st, 1842? Have you seen and examined said accounts? Do not all the said accounts from Oct., 1839, charge her with rent for said premises? Please examine said accounts and annex them to your answers, if you have them.

7th. If in answer to the third interrogatory you say that said Charles ever represented or admitted any agreement made by him to allow your mother to purchase the said premises of him, please state the whole or any conversation or conversations in which you say such representations or admissions took place; and also say whether said Charles stated or admitted any, and if any, what consideration she was to give for the right of purchasing the premises of him, or whether it was optional with her whether to make the purchase, and by what words and acts said Charles so stated or admitted.

8th. Has not said Charles in some one or more of said conversations, and when, and who were present thereat, told you or your mother,

that it was optional with him after some and what lapse of time, from the time of his purchasing the premises, whether to let her purchase the said premises of him or not, or something to that effect? State all that was said in said conversations as far as you can recollect them.

9th. In any such conversation or conversations, and who were present thereat, and when did your mother or said Charles say how long her claim to purchase the said premises was to continue? What reply did he make to her? Has he not one or more times, in your presence, told her, her claim to purchase the premises was only to continue five years, or any and what other time, from the time he purchased them? Or something to that effect?

10th. Did you ever hear said Anna tell said Charles, or said Charles tell said Anna, she had bound herself, or made herself liable in any way to purchase said premises of said Charles? If yea, how did he or she say she had bound herself or made herself liable? And for what length of time? And when did the conversation take place?

11th. If in any such conversation or conversations between your mother and said Charles, you say that he or she said she had a right to purchase said premises of him, please to say what she said, at the time, if anything, as to the time of paying for said premises, as to paying rent for the same, or interest on the price, and the taxes. When and where did the conversations take place, and what did said Charles say in reply? And what did he say which led her to speak on the subject? Have you not heard him, either before or since 1842, tell her she had forfeited all claim by not paying interest or rent regularly?

12th. If in answer to the fourth interrogatory, you say any barn or addition to a barn was built on the premises, please say if said Charles, to your knowledge, has not paid some, and if yea, what part of the expense of building the same. If you have stated anything said by said Charles in any conversation, please state the whole of the conversation. If you say your mother paid any part of the expense of building said barn, or of the addition thereto, please to say whether you saw her pay any part of the expense to any one, and to whom, and where, and what amount?

13th. At what places have you resided every year since 1835?

14th. If in answer to the fifth interrogatory you say your mother has made any additions or improvements to the premises, please state particularly how you know what money she paid for the same, or any part thereof; how much have you seen her pay for the same, and to whom, and what mechanics made each of the additions and improvements you have named? Please state particularly every addition and improvement, if any she has made, and how you know she ordered it, and how you know she paid for it, and to whom.

15th. Have you not some reason, and what, to know that the said Charles Tufts has paid for most, if not all of the repairs, additions, and improvements put on said premises since he had the title to them?

16th. Was there not considerable new fencing put on said premises in 1841 or 1842? Did not said Charles order and pay for the same?

17th. Did not said Charles let several acres of marsh land to one Pierce, part of said premises, before the year 1842; and has not said Pierce cut and carried off the grass from said marsh land for a number of years; and did he not first cut and carry off the grass before 1842, and in what year?

18th. Did not said Charles Tufts, in 1843, sell a small piece of said premises to William Ackerson, jr.? If yea, was not said Ackerson afterwards in possession thereof, and who is now in possession thereof?

19th. If, in answer to the plaintiff's eighth interrogatory, you say that the said Charles ever spoke of any conditions, or purpose, on which said Ammi Cutter held the said premises, please to tell the whole of the conversation which took place at the time. Has not said Charles said in such conversation, that said Cutter only agreed to give your mother the privilege of purchasing the premises for ten years? What, if any thing, did said Charles say that she agreed with said Cutter to do about the repairs, taxes, and rent of the premises, or interest on the purchase money?

20th. Has not said Charles sold sand or gravel from said premises, in the years 1842 and 1843? Has he ever accounted to your mother for the price thereof? Has he not, on the contrary, always claimed the price thereof as his own property? Whether your mother in 1842 or 1843 made any, and, if any, what, objection to said Charles' selling the gravel, and receiving the pay for it? Has he not sold some sand and gravel before those years, for which he did not account to her? Was not the amount of gravel sold by him in those years much greater than had been sold from said premises in any previous years?

21st. If you speak of any accounts rendered by said Charles to your mother, in answer to the plaintiff's tenth interrogatory, please say what is the latest date of the accounts to which you refer; and also state whether said Charles, in all his accounts from October, 1839, does not charge your mother with rent for said premises.

22d. If, in answer to the plaintiff's twelfth interrogatory, you state any conversation to have taken place between you and said Wheeler, in September last, please state when and where the same took place, and what persons were present. Did not the said conversation take place at the store or cellar of J. F. Ward, in Merchant's row, in Boston, and were not said Ward and Currier present at it? Did not said Wheeler ask you what you asked for one thousand loads of gravel, or something to that effect; and did you not reply that you had nothing to do with it, he must go to Charles, or something to that effect? And was not that all the conversation which took place between you and said Wheeler at that time, which had any reference to the said premises? If any thing more was said, what was it? Did you not meet said Wheeler again at the same place, about the middle or latter part of said September; and did you not, in the presence of said Currier and Ward say to said Wheeler, you came the possum over me the other day pretty well, or something to that effect? And was not that all that was said on this latter occasion, which could have any reference to said premises? If any thing more was said, what was it?

23d. Did not Charles raise money, by mortgaging the said premises, to pay his own debts? If so, when, and how much; and have you not heard your mother speak of his having so raised money? And how many years ago was it since you first heard of such a mortgage?

24th. If, in answer to the plaintiff's thirteenth interrogatory, you say your mother attempted to raise any money by mortgaging the premises, please say whether said Charles did not at some time, and when, become liable to pay some, and what amount of, money for you, or whether you did not become indebted to him in some, and what amount? Whether he has ever paid said liabilities? Whether you failed in business at any time, and when, and where? Whether you have ever paid said Charles all you owed him when you failed? Whether, when you were trying to raise money on said premises, the object was not to raise money for said Charles, and to relieve him from the embarrassment which he suffered on account of money which he had paid, or become liable to pay, for you?

25th. Has not said Charles made one or more written offers to sell parts of said premises to your mother? If yea, when was the first made? Please to annex any such offers to your answers, if in your power. Were not said offers made at your mother's request?

26th. What have been the pecuniary circumstances of said Anna since the death of said Peter Tufts, jr.; have they been straitened or otherwise?

27th. Has said Anna Tufts, since said Peter's death, to your knowledge had any, and, if any, what property, yielding any, and, if any, what income? When did she own such property? How long? Does she still own it? What is its value? How do you know she owned it or owns it? How did she become the owner of it?

28th. Have you conversed with said Anna Tufts about this case, or the evidence you are to give in it? If yea, when, how many times, and how long?

29th. Have the plaintiff's or defendants' interrogatories in this case been read to you, or by you, before you were examined by the magistrate who is taking your deposition? If yea, when, and who was present?

30th. Did not Ammi Cutter tell you, some time last fall or winter, that your mother had no claim on the premises, and that she ought to be thankful for what she had received?

31st. Has not said Charles Tufts set out many, or some of the trees on the premises with his own hands? Were they not trees raised in the nursery on the premises? Did you ever borrow money of said Charles to pay for fir trees set out on the premises, and when? Have you ever repaid him?

32d. Was not your mother occupying the said premises at the time the sale of them to said Cutter and Cummings took place; and for how long previous had she occupied them, to your recollection?

S. E. SEWALL,
For C. Tufts and E. Wheeler.

A true copy, attest: FRANCIS BASSETT, *Clerk.*

Answers of Elbridge Tufts, to the interrogatories hereto annexed on the part of the plaintiff.

1st. To the first interrogatory he says: The plaintiff is my mother, and Charles Tufts is my half brother. I have always known them. I have known Mr. Wheeler from my boyhood. I have lived at home with mother all my life, except when I have been in New Orleans, where I was during the winters of the years from 1836 to 1840, inclusive, on business.

2d. To the second interrogatory he says: I was present at the sale at auction of the homestead, but I do not recollect well enough to say, under oath, that Charles was there, though I think he was. The sale took place at the front door of the house, and mother has occupied the premises ever since.

3d. To the third interrogatory he says: I have heard Charles say, or heard it said in his presence, and not denied by him, that when the cost and interest of the place was paid, the property was to be mother's. I cannot say how often, nor when first, nor when last I have heard this. I have heard it very frequently spoken of, and it was understood in the family to be a mutual understanding to this effect. I never heard of any other terms or conditions, or any agreement between himself and my mother.

4. To the fourth interrogatory he says: A barn was built on the premises, I think, in the spring of 1842. Mr. Wise was the carpenter who built it; he was employed, and boarded, and lodged by my mother. I do not know by whom or how he was paid; mother and I directed and superintended the building of the barn. It was built for mother, for the improvement of the estate, and at my request and instigation. Charles never interfered, nor gave any order in regard to the building on his own account. He objected to the barn's being built, because he thought it was useless; he advised us to that effect, rather than objected to its being built, but I thought otherwise, and it was built. He treated it as built for the benefit of the said estate, for mother's benefit. He said we had better pay him than take the money to build it, but mother and I did not think so. Charles gave me an order for some of the boards, and I went and got them, I think from Mr. Gale, or Gale & Burrage. Charles also gave me some shingles; it was at my request. I do not know whether, or how they were paid for. A new wall was built for this barn, and a part of the wall under the old barn rebuilt at the time this new barn was built. I directed therein; it was done for the benefit of the estate by Mr. Bailey. I paid him, partly in money and partly in produce from the estate. I went to Charles and told him I wanted to build a barn, and that I wanted him to furnish me some lumber; he said he had no money to pay for the lumber with; and I told him that if he would give me an order for it, I would pay him in the autumn when the crops came in. He said we had better pay him principal and interest, than spend any more in improvements; that enough had already been spent on the place to have paid for it. I told him that to raise money we had to spend money to make these improvements; and he said that the improvements

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had cost enough already. I told him that the estate was rising in value every year, and was ample security for any thing he might advance, and he did not deny it.

5th. To the fifth interrogatory he says: I cannot give the times, but improvements were continually being made. The kitchen, or L part of the house, and shed were raised one story, folding doors were made between two rooms, scuttles were made in the roof, and necessary repairs were made from time to time about the place. Mr. Ames raised the kitchen, Mr. Wise the shed, Mr. Whitney made repairs about the house, and Mr. Sweetser put in the folding doors; a corn barn was also built, the frame of which was got out in Maine, and brought up here. These persons were paid by mother, to the best of my knowledge. These improvements and additions were all made under the general superintendence of mother; Charles did not, to my knowledge, ever interfere, or give any direction therein on his own account. Both ornamental and fruit trees were set out on the place every year; I cannot say to what extent. I should think that, in 1841 and 1842, trees, vines, &c., to the value of seventy-five or one hundred dollars were set out on the place. Workmen, I can't say whom, were employed by mother, for her own benefit, previous to 1841. I set out the trees planted in '41 and '42; the workmen and myself were paid cash by mother; Charles did not, to my knowledge, interfere, or claim to give any direction therein on his own account.

6th. To the sixth interrogatory he says: At one time mother leased the place for the season, on halves; I can't say to whom. She has let parts of the place at different times; such parts as we did not want, to different persons, for a season at a time, and at rents according to the seasons. Charles never, to my knowledge, till since 1841, objected to or denied mother's right so to do, or to the avails of such leases. One lot of five acres of marsh land had been leased by the year for several years, for from $35 to $50 per year. In 1842 Charles said that he thought that mother ought to let him take the rent of the marsh to pay the taxes on the place; he did not claim this rent as belonging to himself. He was usually consulted, but he never objected to the terms of any of the leases made. He never, before 1842, spoke to me of mother as his tenant, or as hiring the premises of him; he did not, to my knowledge, receive or claim any thing of her, or of any one else, on his own account, as rent. He never, before 1842, to my knowledge, claimed or assumed to be the sole owner, or exclusively interested in the premises. Since my father's death he has been consulted in every transaction, and, being the eldest, has acted as a kind of overseer, but has never claimed to interfere in the management of the farm, or in making the betterments until 1842; he has acted for and under the directions of mother. He has so acted since father died, till 1842; he has overseen her whole concerns generally, and every body knew this; he was there as one of the family—one of us.

7th. To the seventh interrogatory he says: He has said, that whenever mother paid dollar for dollar, the cost, and interest, the place was

to be hers, and that Mr. Cutter and he held the deed as security. He has often said, until 1841 or 1842, that he held as Mr. Cutter had held. I have talked with him often about this, but I cannot state fully and particularly such conversations; when I have asked him for aid in my business, he has been in the habit of saying that his funds were invested in the estate, so that he could not assist me as he otherwise would.

8th. To the eighth interrogatory he says: Gravel and sand have been sold from the place, under bargains made with mother; Charles never, before 1842, undertook to make any such sales on his own account. He used to collect the money, and sometimes he would pay her over the money, and sometimes credit her with so much cash received; he kept the accounts, settled the bills, and when he paid bills he charged them to mother. He received and paid out the money; if a bill came in larger than he had money of mother's to pay with, he would pay it, and charge her with the balance. The two books now exhibited to me are account books of mother's. I have seen Charles write, and know his handwriting; I have examined these books, and find no charges for gravel, except those which are in Charles' handwriting. [See the end of the deposition.] Since father's death, the charges are for gravel taken from the homestead. Joseph A. Holmes had gravel from the premises. Ever since father's death Charles has kept mother's books, and has had free access to her accounts and papers. I have seen accounts rendered by Charles to mother which are now lost, and cannot be found, after a search throughout the house; I saw them last at the house in the fall of 1841, or the beginning of 1842, I don't know which. I cannot say when they were rendered, but they purported to be up to 1841. The paper now shown me, and marked F, is in Charles Tuft's handwriting; I know it to be so, because I have seen him write. I do not know when, or for what purpose, or on what occasion this was written. I have heard that a bargain like that described in this writing was made, but I was not present when this was written. The charges in the books of account now shown to me, for gravel and sand since 1826, are in Charles Tuft's handwriting. I refer, in book marked G on the cover, to a charge on folio 4; the eight last charges on P. B. Hovey's account, on folio 26; three last charges to E. Richards, on folio 38; three charges on folio 69, to West Boston Bridge Co.; on the same folio four charges to E. Davis; on folio 71, three last charges to S. Pond; on the same folio one charge to Fellows & Osborn; on folio 73 there are two charges in his handwriting to E. Hovey; and on the same account there are two other charges of May, 1838, which I think are in the handwriting of a young man named Spear, who lived at our house, but they may be in Charles' handwriting; on folio 73 one charge for sand, to J. Tower & Co., is in Charles' handwriting; on folio 75, to John St. Clair, are ten charges in his handwriting; on folio 76, one charge to A. Newman, jr.; on folio 77, one charge to A. Grant; on the same folio one charge to E. Kimball; on the 79th folio, seven charges to J. Jennings; folio 87, six charges to Low & Kinsley; folio 91, three charges to E. Kimball; folio 95, one charge to J. Wyeth; folio 99, three

charges to D. Stone; folio 109, one charge to D. Fairbanks; folio 110, three charges to C. Valentine; folio 131, one charge to Vinal; folio 139, three entries for gravel to N. Childs; folio 145, three charges to Mark Bills; same folio, one charge to F. Coolidge; folio 181, one charge to J. Jennings. I believe I have thus enumerated all the charges in the book marked G, in Charles' handwriting, for sand or gravel, since 1826. In the book marked H I find but one charge in his handwriting, viz., to James Stone, on March 10, 1838.

9th. To the ninth interrogatory he says: I have never had any such accounts rendered to me by Charles; I have seen those which he rendered to mother. They were a kind of single entry account current; the credits were all placed underneath. Mother was charged with the amount paid Ammi Cutter, with interest, and with interest on the balance due, and with whatever amounts he had paid out on her account, as for taxes, workmen, &c. The sum of thirty-nine hundred dollars, or thereabouts, was charged to mother, as paid to Ammi Cutter for the premises. There were charges for the interest on said amount paid Ammi Cutter, and also for interest on the balance due. My recollection does not enable me to state more fully and particularly than I have done above the details of these accounts, but my recollection as to what I have above stated is distinct.

10th. To the tenth interrogatory he says: I do not know when or how long Emerson Wheeler lived in Cambridgeport. I can remember that when I was a boy he lived at Dr. Chaplin's, about three quarters of a mile from the premises. H. M. Chamberlin, Wm. Hovey, jr., and Jos. A. Holmes, have lived in Cambridgeport; I do not know how long. Chamberlin lived, and still lives, within a half a mile of the premises; Hovey has lived within from half a mile to a mile of the premises. Holmes has lived, and still lives, at about the same distance from the premises Mother was known by most every body in Cambridgeport, and the vicinity; she was known pretty generally, particularly by the old settlers. It was extensively known in Cambridgeport, and in the vicinity of the homestead and premises, that mother carried on the premises, sold gravel therefrom, and made improvements or betterments thereon.

11th. To the eleventh interrogatory he says: Mr. Wheeler met me accidentally in August or September, 1844, and asked me the price of gravel, and we had some conversation about his buying an acre of land of the premises. The conversation took place in J. F. Ward's cellar, in Merchant's row, Boston; Mr. Ward and Mr. Currier were present. I happened in there, and Mr. Wheeler was sitting in the back part of the cellar, and he asked me what we would sell him a quantity of gravel for; I think he said a thousand loads; and he wanted to know to whom he should go to buy it. I said any of us would sell it; I would. (I meant Charles, mother, or myself, or any of the family.) He begun on the price. I told him we were getting a shilling a load, where the quantity was not over fifty loads; that the bridge and the town of Cambridge took great quantities, and had it for fifteen cents a load, and that we would sell him whatever he wanted at that price. He asked me if

I didn't think he could make a bargain with us to let him have it les than that; and considerable conversation passed between us as to price of gravel, and the prospect of its rising. This conversation made me think that he wanted to speculate by monopolizing the pit, and resell the gravel. He asked me if he couldn't buy an acre; whether we wouldn't sell it; what it would be worth. We talked together, and calculated that an acre would be worth from twelve to fifteen hundred dollars. I told him that I considered it the most valuable part of the land for income; that, if 'twas mine, I wouldn't sell it to any body. He asked me about it, and I said, "if you want to buy that way, you'd better go and see Charles or mother, and make the best arrangement you can with them." He asked me who held, or who had the deeds of the place; I told him the deed was in Charles' name. When he began to ask about the title I began to be a little more guarded in my answers. He asked me, in the course of the conversation, if I thought he could buy an acre from Charles, and if his deed was good. I answered him, yes. I do not know if he asked me if any one else was interested; but, if he did, I told him that no one else was. I gave him to understand that Charles alone had the deed. I think he then went off. That is the sum and substance of the conversation, except that he said he would go down and see Charles. I do not know what day of the month or week this occurred; it was in the forenoon. Mr. Wheeler did inquire who held the deed of the premises; I told him that Charles had the deed. He asked, after he inquired who held the deed, if I thought Charles could give a good title to the premises; and I told him I thought he could, as the deed run in his name. My reason for giving this reply was, that mother had been very much troubled by bills being presented, and even sued; and knowing him to be round, and intimate with some persons that she owed, I thought that they had got him to come and pump out of me whether mother had any actual interest in the estate. Knowing that there were several writs out, and that they had tried several ways to find out how her interest stood there, if any, I thought he was prying into that which was none of his business; and his manner of conversation was such, that I considered that he was prying into what did not concern him. I considered him, at the time, a kind of a spy sent to pry and find out; thinking that he might have bought up some account or bill against mother, and wanted to make an attachment if he could get hold of some property. For these reasons I told him that the fee lay with Charles, and he could give a good title, knowing all the time that mother had a right to the place. In the first part of the conversation he inquired the price of gravel; he began on it. All he spoke of purchasing of the land was one acre; he didn't want the land, he only wanted the gravel on the land. He asked first how much we would sell him the gravel for; how much a load; what we would sell him a quantity for. I told him he could have it for fifteen cents a load; I referred him to Charles Tufts. He wanted to buy lower, he said he wanted a large quantity; and I referred him to Charles and mother. I told him I would sell him as much as he

wanted for fifteen cents a load. I cannot tell the day of the month of this conversation. I remember this conversation, because I gave up business soon after, and I remember it as any transaction in my business; I have no other or particular reason for remembering it. Circumstances which have happened since then have placed the conversation fully in my mind, so that I remember it.

12th. To the twelfth interrogatory he says: In 1841 and 1842, and before those years, mother tried to raise money by mortgaging the place, in order to pay off Charles. He knew of her attempts, and gave all the title deeds of the place to me for her, that she might raise money. I should think we kept the deeds four or six months; in fact I don't know when they were returned to him. It was with the assent of Charles. I do not know when mother last had the deeds; I had them last some time in the spring of 1842, I can't say just when. Charles and I have had conversations together about this; and, until '42, he has always said the money to be raised by the mortgage was to pay his claim off. I have heard conversations between Charles and mother on this subject, and, until '42, he never denied that, whenever mother paid dollar for dollar, with interest, she should have the place; sometimes he was very anxious that she should get the money for it. When, in 1841, I first took the deeds I wanted some money, and, after some conversation, it was agreed that if mother or I could raise the money, so that he should be paid, he would lend it to me; the money was to be borrowed for mother, to pay Charles.

13th. To the thirteenth interrogatory he says: I know nothing to say in answer to this interrogatory, except that when I have been questioned by Wheeler, or any one else, as to the title to the place, I have always endeavored to give an evasive answer, and not to come to the point.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: I am twenty-eight years old.

2d. To the second cross interrogatory he says: I have resided in New Orleans; I went there in October or November, 1834, and resided there five years, off and on. I ceased to reside there last January, and have since resided in Groton, in Connecticut.

3d. To the third cross interrogatory he says: I never, till since 1842, heard Charles Tufts say that mother's right to purchase the place was only for five years. I have heard him say so several times since then, at the house, and at his place; I can't say how many times.

4th. To the fourth cross interrogatory he says: I never heard him, till since 1842, deny mother's claim to purchase the place. Since that time he has always denied it, whenever we have conversed about the place—not a great many times.

5th. To the fifth cross interrogatory he says: There has been such a controversy since 1842, but not to my knowledge ever before then; he has since then, and never before then, denied her claim many times in my and in her presence.

6th. To the sixth cross interrogatory he says: Charles Tufts has rendered yearly accounts to mother almost every year, for some years. I cannot say whether the last account he rendered was, or was not, in January, 1843. The lost accounts of which I have spoken, were as of January 1, 1840; I was then in New Orleans; I saw them in '41, when I returned. He rendered accounts about January 1, 1841, and January, 1, 1842, and I have seen and examined them. All the accounts from Oct., 1839, do not charge her with rent for the premises. The only account which is in my possession I hereto annex; it is the first account in which she was charged with rent; the other accounts cannot be found.

7th. To the seventh cross interrogatory he says: I cannot give the details of such conversations. I never, till 1842, heard him express, other than a wish, that she should take the place. I never heard Charles or any one else speak of any consideration to be given by mother for the right to purchase the place. All she was to give was the cost and interest. I never heard Charles state or admit that it was optional with her to take or not the place. I understood that she was bound to take it.

8th. To the eighth cross interrogatory he says: Since 1842 Charles has always denied all mother's right to redeem, but I cannot repeat the conversations, or say who was present. Before that time I never heard him fix any time after which mother could not purchase.

9th. To the ninth cross interrogatory he says: I cannot recollect who were present at, or when took place, conversations in which Charles told mother that her right to purchase continued for only five years. Such conversations have all been since 1842. Whenever the subject has been mentioned since 1842, he has told her that her right to purchase the estate of him was to continue for only five years. I cannot tell how many times since 1842 he has ever said so. He never said so, in my hearing, before 1842.

10th. To the tenth cross interrogatory he says: I never heard mother say to Charles, or Charles say to mother, that she had bound herself, or made herself liable in any way to purchase the premises of Charles.

11th. To the eleventh cross interrogatory he says: I cannot remember what exactly was said in such conversations, but before 1842 I never heard either mother or Charles say anything as to any time within which she must pay for the premises, nor did I hear rent spoken of; she was to pay the taxes on the place, and interest on its cost. Such conversations have taken place at the house, and at Charles' store. I don't know that he led mother to speak on the subject. What commenced it was the questions asked by mother and myself. I never have before 1842, and I have since 1842, heard Charles tell mother that she had forfeited all claim by not paying the interest regularly. I cannot recollect the times of such conversations.

12th. To the twelfth cross interrogatory he says: I do not know that Charles has paid anything towards the building of the barn. I went to him when I built the barn and asked for an order for some lumber. After some persuasion he gave it to me, but he said it was not needed,

and tried to persuade me not to build it, and said we had better pay him than spend any more on the place. This is the sum and substance of this conversation. I am unable to state the whole of this, or of any other of the conversations I have had with him about this matter, as some time has passed, and I cannot remember them. I saw her pay Isaiah Bailey for the wall under the barn at the house, but I don't recollect what amount. I have never *seen* her pay for any other of the work.

13th. To the thirteenth cross interrogatory he says: I resided in New Orleans from 1835 to 1841, being at home in Cambridgeport three or four times for the summers. Since 1841, until last January, I have resided at home, and since January last I have resided in Groton, in Connecticut.

14th. To the fourteenth cross interrogatory he says: Mr. Bailey's is the only bill I have seen settled—that I settled myself in the room with mother. I have not seen, or do not recollect of seeing, her make any other payments, and do not know, of my own knowledge, of any others she has made. The kitchen was raised by Mr. Ames. The shed was raised, and the barn was built, by Mr. Wise. The folding doors were built by Mr. Sweetser. The scuttles were made by Mr. T. Whitney. I think the corn-barn was built by a man named Moal, but I am not sure. Mr. Whitney generally made the repairs about the house and buildings. She also built new fences, and repaired the old ones, about the place, and set out trees, both ornamental and fruit trees. I don't remember the name of the man who built the fence round the house. I paid him, on mother's account, from proceeds from sales from the place. I only know that she ordered these things done, from her having the general superintendence of them, and her having told me so. I do not know, of my own knowledge, that she has paid for them, except the barn-wall, and the fence round the house.

15th. To the fifteenth cross interrogatory he says: I have no reason to know that Charles has paid for any of the repairs, additions, or improvements.

16th. To the sixteenth cross interrogatory he says: There was considerable new fencing put on the place in 1842. The new picket fence was put on the west side of the road at his order and at my request. None of the rest of the fencing was put up at his order, nor did he pay for it. He paid for the putting up of the picket fence, but I don't know if he paid for the stuff or not.

17th. To the seventeenth cross interrogatory he says: Mr. Pierce has hired the marsh for a number of years. I don't know when he first cut and carried away the grass, nor do I know whether or not Charles let it to him.

18th. To the eighteenth cross interrogatory he says: I do not know whether Charles sold to Arkerson or not, nor do I know who is now in possession thereof. I know that Charles let some land to Arkerson.

19th. To the nineteenth cross interrogatory he says: I am unable to state the whole of such conversation. Charles has told me that Mr.

Cutter held it, that mother might redeem it by paying dollar for dollar on its cost, and interest; and he never, until since 1842, mentioned any time. He said that he held it on the same terms that Mr. Cutter did; and when asked for any document, that we might show that he so held it, he said his word was as good as his bond. He has said, since 1842, but never before, that it was to be held for ten years, subject to mother's right. Charles has told me that the bargain with Cutter was that she should keep it in repair, pay the taxes and interest, and have the place at any time by paying dollar for dollar and interest.

20th. To the twentieth cross interrogatory he says: Charles has sold sand and gravel from the premises in 1842 and 1843, and has not accounted to mother for the price thereof. He never, until 1842, and since then he has, claimed such price as his own property. Mother has told him that he ought not, and had no right, to sell the gravel and not account to her for it. I do not know whether he has accounted for all he has sold. He has for a part; but I see on the books charges for sand and gravel, for which I do not know whether or not he has accounted to her. I think the amounts sold in 1842 and 1843 were fully as large as in any previous years. I do not know that they were larger.

21st. To the twenty-first cross interrogatory he says: The latest account I have seen was rendered in January, 1842, and I have annexed it hereto. I never saw a charge for rent before I saw it on this bill, rendered in January, 1842.

22d. To the twenty-second cross interrogatory he says: The conversation with Wheeler took place in Merchant's Row, No. 24, in J. F. Ward's cellar. Messrs. Ward and Currier were present. Wheeler asked me the price of a thousand loads of gravel, and I told him he might have them for fifteen cents. I do not recollect telling him that I had nothing to do with it. I told him to go to Charles or to mother. He also spoke of buying an acre of land, and asked about the title, who held the deeds, and if Charles could give a good title. I don't recollect seeing Wheeler again in September, and don't recollect saying anything more to him than I have above said.

23d. To the twenty-third cross interrogatory he says: I first heard in 1843 that Charles had mortgaged the place by seeing it on the records at East Cambridge. Mother did not know of it until I told her of it. I don't remember the date of the mortgage; it was for a thousand dollars, and to A. C. Lombard.

24th. To the twenty-fourth cross interrogatory he says: Charles has become liable for E. Tufts & Co., in 1840 and 1841, for some twenty-seven hundred dollars, a part of which, I do not know how much, he has paid. I failed in business in 1841 in New Orleans, but have not paid Charles all I owed him when I failed. When I was trying to raise money on the premises, the object was not to raise money for Charles, to relieve him from embarrassment on account of money he had been obliged to pay on my account. The object was to get him

the money, and to change the mortgages. He wanted the money to be able to assist me.

25th. To the twenty-fifth cross interrogatory he says: Charles has made a written offer to sell part of the premises to mother. I know not when, and have it not, and cannot annex it. It was made at mother's request.

26th. To the twenty-sixth cross interrogatory he says: The pecuniary circumstances of my mother have been straitened, at times.

27th. To the twenty-seventh cross interrogatory he says: Mother has had property yielding an income; but I know not its value, nor the income from it, nor when, nor how long she owned it, or whether she owns it now. I know that she did own it, by knowing of the settlement of her father's estate, by whose will she became entitled to it. There might not have been a will; she might have been his heir-at-law.

28th. To the twenty-eighth cross interrogatory he says: We have talked of the case at large, in the family, often, within six months. Mother does not know what evidence I can give, to my knowledge. I can't give the dates, numbers, or lengths of these conversations. They have been very frequent.

29th. To the twenty-ninth cross interrogatory he says: I have never seen or heard read these interrogatories, or any of them, before, as they are now put.

30th. To the thirtieth cross interrogatory he says: Mr. Cutter did not tell me that mother had no claim on the premises, and that she ought to be thankful for what she had received. He said that Charles had done so much for her and for me, that she ought to be willing to relinquish her claim on the place; that Charles had been like a father to us children, and that now, when we were able to help ourselves, we ought not to contend against him.

31st. To the thirty-first cross interrogatory he says: Charles has set out some trees on the place with his own hands; they were from the nursery on the place. I have borrowed money of him in 1842, to pay for trees on the place, to the amount of five dollars, and have repaid him.

32d. To the thirty-second cross interrogatory, he says: Mother occupied the premises when the sale to Messrs. Cutter and Cummings took place, and had occupied them since I was a boy—since father purchased the place, which was, I think, in 1815 or 1816.

I wish to modify the first part of my answer to the eighth direct interrogatory, by stating, that in the book marked G there are two entries in a handwriting which I am unwilling to say, under oath, is Charles'. They are on the 73d page, on Mr. Hovey's account.

ELBRIDGE TUFTS.

Sworn to before me, the twenty-fifth day of June, 1845.

GEORGE S. HILLARD,
Commissioner.

Paper marked A, annexed to the deposition of Elbridge Tufts.

Mrs. Anna Tufts, in account with Charles Tufts.

DR.

1842.		
January 1,	To balance per acct. rendered, - -	$2,291 67
March 31,	Paid P. O. Bryan's wages, - -	137 00
August 10,	Cash lent, - - - - - -	10 00
" 20,	1 qr. cask Dupont's powder, sold J. Tyler, - - - - - -	5 25
	Cash paid W. B. Bridge, due-bill, -	7 05
October,	" " taxes, 1842, - - -	38 64
Decem'r 31,	Rent, house and lands, - - -	250 00
	Interest on $2,291 67, balance due January 1, - - - - - -	137 50
		$2,877 11
	To balance due, as above, - - -	$2,414 80

CR.

1842.			
October 12,	By board from January 1, to date, 40 5-7 weeks, at $8, - - - - -		$325 71
" 31,	Services, acct. Magazine,	$150 00	
	Less paid C. Smith, for mistake in delivering powder, -	13 40	136 60
	Balance due, - - - - - -		2,414 80
			$2,877 11

[E.]

Whereas, James Stone and Anna Tufts have this day agreed to refer to the award and determination of Ephraim Buttrick, Edward Cutter, and Emerson Wheeler, all the claims, demands, and rights of action which they mutually have against each other; also the terms and conditions upon which said James Stone shall quit and deliver possession to the said Anna Tufts of the real and personal estate belonging to her, and by her heretofore leased to the said James Stone, and that the award of the said referees shall be final and binding on the parties; now we, the said James Stone and Anna Tufts, mutually agree and promise each the other, that we will and do consent to such reference, and will abide the award of said referees.

JAMES STONE,
ANNA TUFTS.

December 21, 1837.

I guarantee the performance of the award which may be made, in pursuance of the foregoing reference, by the above named James Stone. ISAAC STONE.

Paper writing marked E, referred to in the execution of a commission to take the depositions of witnesses, in the case of Anna Tufts vs. Charles Tufts and al.

GEO. S. HILLARD,
Commissioner.

[F.]

Mem. of an agreement made between Mr. James Stone and Mrs. A. Tufts, April 1, 1837. Mrs. Tufts to furnish such stock and tools as she has at present; also all the land (except the fruit-garden) belonging to the place, with two rooms and kitchen in house: also what manure there is at present on the farm. Mr. Stone furnish all the labor; one horse, if wanted; all new tools, &c., wanted: to leave at the end of the year as much manure, hay, and seed, as are at present on hand; the proceeds of the farm to be divided equally; the trees to be well taken care of; those on grass land to be well dug round; such manure and seed as is necessary to purchase to be paid for, one half by each party; such gravel as may be carted by said Stone, the proceeds to be divided, after deducting 12 c. per load to pay for the gravel. Said Stone to furnish one half of the swine and fowls, and to own one half of the same at the end of the year. Said Stone to pay one half of the taxes.

Paper marked F, referred to in the execution of a commission to take the depositions of witnesses, in the case of Anna Tufts vs. Charles Tufts and al.

GEO. S. HILLARD,
Commissioner.

Extracts from Mrs. Tufts', plaintiff's, journal or book marked G, referred to by Samuel L. Cutter and Elbridge Tufts, and admitted to be in Charles Tufts', defendant's, handwriting, except the paging.

	(P. 4.) Mr. Weatherbee, Dr.	
1824	To 2 loads gravel to Crafts	$0 16
1825	70 loads of sand to Richards	4 20
1830	8 loads of sand, carted by Towers	50
	(P. 18.) Mr. Thomas Dowse, Dr.	
1824	To 5 loads gravel by Weatherbee	40
	2 loads sand by Weatherbee	12
1825	1 load gravel by Weatherbee	8
	(P. 26.) Mr. Phinehas B. Hovey, Dr.	
1824	To 108 loads of gravel by Parks	8 64
1825	40 loads of gravel by Parks	3 20
1826	3 loads of gravel by Parks	24
March 3		
1826	28 loads gravel, carted by Parks, 8	2 24
1827	8 loads gravel, carted by Parks	64

[*Extracts from Mrs. Tufts' journal or book marked G*—Continued.]

1828	To 128 loads gravel, carted by Parks, 8 - - - - - -	$10 24
	16 loads sand, carted by Parks, 6 - - - - - -	96
Dec. 1		
1829	13 loads gravel, carted by Parks, 8 - - - - - -	1 04
1834	9 loads sand, carted by Aldrich - - - - - -	72
	22 loads sand, carted by St. Clair - - - - - -	1 76
May 31	6 loads sand, carted by St. Clair - - - - - -	48
	(P. 36.) Mr. Samuel Mason, Dr.	
1824	To 28 loads of sand, carted by Weatherbee - - - - -	1 68
	(P. 38.) Mr. Edward Richards, Dr.	
1824	To 3 loads of sand, Weatherbee - - - - - - -	18
1825	70 loads of sand, carted by Weatherbee - - - - -	4 20
1826	20 loads sand, carted by Parks, 6 - - - - - -	1 20
1827	44 loads sand, carted by Parks, 6 - - - - - -	2 64
	6 loads gravel, carted by Parks, 8 - - - - - -	48
	(P. 65.) Mr. Daniel C. Curtis, Dr.	
1824	To 10 loads of gravel, carted by Weatherbee - - - - -	80
	6 loads of sand, carted by Weatherbee - - - - -	36
	(P. 69.) Dr. Proprietors of West Boston Bridge.	
1834	To 84 loads gravel, by Prentiss.	
May	loads gravel, by Tower.	
1839	14 wagon loads gravel, carted by J. Burrage, 1s.	
October 1	cart loads gravel, Wheeler, 1s.	
	Dr. Eliphalet Davis.	
1830	To 20 loads sand, carted by George Parks, 6¼ c. - - -	1 25
1834	10 loads sand, carted by St. Clair, 10 c. - - - - -	1 00
1836	loads sand, carted by Brigham & Hovey, 10 c.	
1837	22 loads sand, carted, 1s. - - - - - - -	3 67
	(P. 71.) Dr. Samuel Pond.	
1824	To 52 loads gravel, Brigham & Hovey - - - - - -	4 16
1825	9 loads sand, by Parks - - - - - - - -	54
1827	59 loads sand, by Parks, 6 c. - - - - - - -	3 54
1828	9 loads sand, by Parks, 6 c. - - - - - - -	54
Dec'r 1		
1829	49 loads sand, by Parks, 6 c. - - - - - - -	2 94
	Settled.	
1835	Fellows & Osborn, Dr.	
August	To 72 loads sand, 6 c. - - - - - - - - - -	4 32
	(P. 73.) Dr. Eben'r Hovey.	
1824	To 49 loads gravel, carted by Prentiss - - - - -	3 92
1832		
Sept. 11	Gravel and sand to this date, 119 loads - - - -	7 14
November	About 30 loads to D. Ames.	
	Dr. Jona. Tower & Co. (John St. Clair.)	
1832	To 280 loads sand to Aug. 1, at 6 c. - - - - - -	16 80
	Settled by J. M. St. Clair, June 25, 1834.	
	(P. 75.) Dr. Farrington.	
1824	To 13 loads gravel, carted by Prentiss - - - - -	1 04

[*Extracts from Mrs. Tufts' journal or book marked G*—Continued.]

	Dr. John St. Clair.	
1832	To 250 loads sand, from 1 August, at 6 c. - - - -	$16 00
1833	200 loads sand, at 6 c. - - - - - - - -	12 00
1834	21 loads sand, carted to S. Pond - - - - -	1 26
	16 loads sand, carted to himself - - - - -	96
	loads sand, carted to Twing - - - - - -	00
1834		29 20
June 25	Settled by order on N. Childs - - - - - $10 00	
	due bill - - - - - - - - 18 00	
	cash - - - - - - - - - 1 20	
		29 20
August 1	To 50 loads gravel, carted to R. Fiske and E. Davis - - -	5 00
Sept. 2	20 loads gravel, carted to R. Fiske and E. Davis - - -	2 00
15	10 loads gravel, carted to Otis - - - - - -	1 00
Oct'r 20	10 loads gravel, carted to Fiske - - - - - -	1 00
1840	Settled.	
1834	(P. 76.) Mr. Andrew Newcomb, Dr.	
Jan'ry 10	To 2 loads sand, and carting - - - - - - - -	50
	(P. 77.)	
1824	To 26 loads sand, carted by Weatherbee - - - - -	1 56
1825	7 loads sand, carted by Weatherbee - - - - -	42
1827	28 loads sand, carted by Bills, at 6 c. - - - - -	1 68
	Dr. Ebenezer Kimball.	
1829	To 62 loads gravel, carted by Tower, 8 c. - - - -	4 96
	Settled.	
	(P. 79.) Dr. Joseph Jennings.	
1825	To 6 loads gravel, carted by Weatherbee - - - -	48
1826	50 loads sand, carted by Tower - - - - - -	2 00
1826	21 loads sand, carted by Parks, 6 c. - - - - -	1 26
1827	28 loads sand, carted by Parks, 6 c. - - - - -	1 68
	7 loads gravel, carted by Parks, 8 c. - - - - -	56
1828	22 loads sand, carted by Parks, 4 c. - - - - -	88
1829	19 loads sand, carted by Parks - - - - - - -	72
	38 loads sand, carted by Tower, in addition to the 50 loads charged above - - - - - - - - -	2 08
1833	(P. 87.) Dr. Lowe & Kingsley, Boston.	
March	To 16 loads sand, at 10 c. - - - - - - - -	1 60
April	103 loads sand, at 10 c. - - - - - - - -	10 30
May	99 loads sand, at 10 c. - - - - - - - -	9 90
June	129 loads sand, at 10 c. - - - - - - - -	12 90
July	55 loads sand, at 10 c. - - - - - - - -	5 50
	100 loads sand, at 10 c. - - - - - - - -	10 00
1835	(P. 91.) Dr. Eben'r Kimball.	$50 20
Nov'r 6	To loads gravel, at 8 c. - - - - - - - -	
1836		
April 9	loads gravel, at 10 c. - - - - - - - -	
December	loads gravel, at 10 c. - - - - - - - -	
1830	(P. 95.) Dr. Jacob Wyeth, Cambridge.	
June	To 33 loads sand, carted by Tower, 6¼ c. - - - - -	2 06
	(P. 99.) Dr. David Stone, (C. Port.)	
1829	To 85 loads sand, carted by Parks, 6¼ c. - - - - -	5 31
	95 loads sand, carted by Towers - - - - -	5 94
	21 loads gravel, carted by Towers - - - - -	1 68
	Settled March 3, 1831.	

[*Extracts from Mrs. Tufts' journal or book marked G*—Continued.]

1837	(P. 109.) Dr. Dexter Fairbanks.	
April	To 50 loads gravel, carted by Sargent, at 1s. - - - -	$8 34
	Settled.	
1835	(P. 110.) Mr. Charles Valentine, Dr.	
Sept'r 1	To 50 loads sand, (2-horse loads,) at 8 c. - - - -	4 00
	100 loads sand, (2-horse loads,) at 6 c. - - - -	6 00
July 20	150 loads gravel, (1-horse loads,) at 6 c. - - - -	9 00
1837	(P. 131.) Dr. Vinal.	
June	To 22 loads gravel. at 1s. - - - - - - - -	3 67
1836	(P. 139.) Dr. Nathan Childs.	
June	To 30 loads gravel, carted by Willard, at 10 c. - - - -	3 00
August 16	36 loads gravel, Holton & Tibbets, at 10 c. - - - -	3 60
May 2	Note for gravel - - - - - - - - - -	6 67
1836	(P. 145.) Dr. Mark Bills.	
April 8	To 24 loads gravel, at 10 c. - - - - - - - -	2 40
9	12 loads gravel, at 10 c. - - - - - - - -	1 20
10	12 loads gravel, at 10 c. - - - - - - - -	1 20
1837	Dr. Flavel Coolidge.	
May 9	To 30 loads gravel, carted by L. Holton, at 1s. - - -	5 00
1841	(P. 181.) Dr. Joseph Jennings.	
March 1	To 145 loads gravel, at 1s. - - - - - - - -	24 17
30	loads gravel, at 1s.	

Extracts from Mrs. Tufts' book marked H, referred to by Samuel L. Cutter and Elbridge Tufts, admitted to be in the handwriting of Charles Tufts, defendant.

	Dr. Mr. James Stone.	
April 26	To ½ bushel potatoes to eat - - - - - - - -	$0 37
May 9	2 bushel potatoes to eat - - - - - - - -	1 50
	balance due on sale hog - - - - - - - -	2 80
31	2 bushels potatoes to eat - - - - - - - -	1 80
June 20	1 bushel potatoes to eat - - - - - - - -	75
July 18	½ bushel potatoes to eat - - - - - - - -	38
Sept. 10	½ cord pine W. - - - - - - - - - -	2 75
30	cash on account Wheeler cow - - - - - - - -	15 00
Oct'r 1	⅓ amount received for work done on Magazine road - -	12 37
30	⅓ tax bill, $23 67 - - - - - - - - -	11 83
November	½ cabbages sold, say 3,000, at 3 c.—$90 - - - -	45 00
1838		
January	½ 2 calves sold, $14 - - - - - - - - -	7 00
March	½ 2 calves and skins, $1 - - - - - - - - -	1 00
10	½ milk sold from Nov. 14 to March 10, average 20 quarts per day, 2,320 quarts, at 4½ c. - - - - - - -	72 50
	¼ of 18 loads gravel sold Hancock, at 50 c. per load - -	4 50
April 1	½ milk sold from March 10 to date, 21 days, at 20 quarts per day, 420 quarts - - - - - - - - -	13 12
1837	*Contra.*	
Oct'r 3	By 20 bushels potatoes put in cellar, (divided)	
4	16 bushels potatoes put in cellar.	
11	3¼ bushels potatoes put in cellar.	

Deposition of Deborah C. Tufts.

In the circuit court of the United States for the first circuit and district of Massachusetts, in chancery, between Anna Tufts, plaintiff, and Charles Tufts and Emerson Wheeler, defendants.

Interrogatories to be administered to Deborah C. Tufts, of Cambridge, in said district, a witness to be examined on the part and behalf of the plaintiff.

1st. Whether or not do you know the parties, plaintiff and defendants, in the above entitled cause, or either and which of them? And if so, how long have you known them, or either and which of them? Are you related to the plaintiff and the defendant, Charles Tufts; and if so, in what way? Have you lived with the plaintiff; and if so, how long? And has the said Charles Tufts, and if so how long, and until what time, lived in the same family, or boarded and lodged with the said Anna Tufts?

2d. Whether or not you have ever heard any thing said before 1842, by said Charles Tufts, or by your mother or any one else, in his presence and hearing, respecting any interest which she claimed to have in the homestead where she lived in Cambridge? If so, at what time or times; and what was said, either by your mother or said Charles, or any one else, in his presence and hearing; and by whom was it said? And whether or not did the said Charles assert it or deny it, or in any way and how admit it, or any and what part thereof? Whether or not it was asserted by any one, and in any and what way, admitted or not denied by said Charles, in any such conversation, that your mother had any interest in said homestead, or any right to a conveyance or deed to her thereof on any terms? If so, what was her interest declared, or in such conversation not denied in any way, and how, by said Charles, or admitted to be? Or on what terms was it declared or not denied, in any and what way by said Charles admitted, that she was entitled to a deed of the said estate and premises? If you say that any money or particular sum and interest was to be paid by her, please to state whether or not any particular time was limited for the payment thereof. Whether or not in any such conversation the said Charles said, or in any and what way admitted, that he had taken a deed of or held the said estate for the benefit of any one other than himself; and if so, for whom? And what did he say, or what was said in his presence and hearing, and by him in any and what way admitted or not there denied, relative thereto?

3d. Whether or not your mother has made any repairs, alterations, additions, and improvements, or betterments, on the said estate; and if so, what repairs, alterations, betterments, additions, or improvements, on or to the buildings or lands? And whether the said Charles or your mother has superintended and directed respecting the same? And whether the said Charles has ever, as far as you know, in any way, and if so how, interfered with any doings of your mother herein, or endeav-

ored in any way, and if so how, to prevent or forbid your mother making any such betterments, alterations, or improvements, on the premises; or questioned her right so to do; or, as far as you know, claimed to have any thing and what to say, or any, and if so what, right to direct therein?

4th. Whether or not your mother, or who, has managed or carried on the business and concerns of the farm and place composing the homestead? And if so, whether the said Charles has interfered with her doings therein; or whether or not, as far as you know, he has acted as her agent, or under her directions? Whether or not your mother has leased any part of the farm? If so, whether or not said Charles knew thereof or objected thereto, or claimed to have any thing to do therewith, as far as you know? And what, if any thing, do you know relative to the premises? Whether or not your mother has received the income, issue, and profits of the estate; or the said Charles has received them; and whether, if so, in whole or part he received them for himself or for her; if you know, and what are your means, if any, of knowing it? Whether, prior to 1842, the said Charles ever, in your presence or hearing, claimed to be absolute owner of the premises, or denied that your mother had any interest therein, or asserted or pretended that your mother was his tenant? And whether or not, prior to that time, he ever in any way, and if so how and in what way, undertook or pretended to take the charge, possession, control, or management of the said estate and homestead, independently of your mother; or pretended to have any thing and what to say or do therein; or ever let, or in any and what way attempted to lease the same; or in any way, and how, claimed to have the control over the same, or disposal thereof, as the sole proprietor thereof; or ever in any, and if in any what way, treated the same as exclusively belonging to him; or ever, prior to that time, claimed any rent of your mother, or treated her in any, and if in any what, way as his tenant, or called upon her to account for the income or profits of the estate?

5th. Whether or not you ever heard your mother, in the presence and hearing of said Charles, or said Charles himself, say any thing respecting any terms on which, or purpose or object for which, Ammi Cutter, or said Cutter and Cummings, or said Cutter and Perkins, had had or held a conveyance of the said homestead and premises? If so, what was said, and in any and what way admitted or not denied, by said Charles, touching the same, and when; and whether more than once, or frequently or not? And whether or not it was said, or in any way, and if so how, admitted or not denied, that your mother had any, and if any what, interest therein at that time?

6th. Whether or not your mother has sold any gravel or sand, being part of the estate, which was carried off the premises with the knowledge of said Charles? If so, to what extent; in what year or years? And has said Charles in any, and if so what way, objected thereto, or denied the right of your mother so to do; or has he assisted therein? And who has received the money therefor? And, if you say that the

said Charles has received any portion thereof, please to state whether or not any thing has been said, and if so what, by your mother or said Charles, or in his presence and hearing, and by him in any way and how assented to or not denied, in regard to his receiving the same, or as to the manner in which it should be applied. And whether any, and if so what, part thereof was to go to pay any, and if any what, interest; or whether the said Charles was to keep the same without accounting therefor, or how otherwise?

7th. Whether or not you have heard your mother, in the presence and hearing of said Charles, say or propose any thing in regard to raising money by mortgage of the premises for her use? If so, when and what was said? And whether or not did the said Charles in any, and if any what, way assent or object thereto? And to what uses or purposes was the money to be applied? Whether or not, within your knowledge, did the said Charles deliver the deed of the premises to your mother for any such, and if so what, purpose? And whether or not did he go with your mother, on any and what occasion, to assist her in borrowing money on mortgage of the premises? And if so, do you know whether or not it was for her use; and if so, what are your means of knowing?

8th. Whether or not, at or about December, 1839, or at any and what time, your mother first left Cambridge on a journey to New Orleans, or elsewhere in that part of the United States, for any and what purpose? And if so, was the object or purpose of her journey known to the said Charles? And did he then live in her family? And did he encourage, or assent to, or object to her giving for any such purpose?

9th. And whether or not, at or about the time of said proposed journey, and when, any conversation was had, or any thing was said, between the said Anna, your mother, and the said Charles, in your presence, touching any claim on her part of any right, title, and interest in the said estate and premises, or touching any conveyance to be made in any case of the same to her? If so, please to state the time, place, and occasion, and what was said by each party, minutely, and particularly, and fully, according to your best recollection, and state whether you clearly recollect the same.

10th. Whether or not any part of the premises were at any time, and if so when, leased to Stone? If yea, was the bargain made with your mother or said Charles? Whether or not did the said Charles claim or pretend to have any thing, and if any thing what, to say or do relative thereto? Whether or not your mother or said Charles, and if so which of them, has rented any part of the premises to any other person, and if so to whom, and for what term or terms of time? And whether the said Charles has in any, and if so what, way objected thereto, or pretended in any and what way to have any thing, and if any thing what, to say or do relative thereto on his own account?

11th. Whether or not, in transacting any matters or things on the premises, as far as you know, your mother has gone to the said Charles, on any occasion, for any and what directions relative thereto? And

whether or not the said Charles has, on any and if so what occasion, gone to your mother for any and what directions? Whether your mother has rendered an account of her doings to him, or he of his doings to your mother? Whether your mother has consulted or asked liberty of him as to whether she might do anything in particular on the premises; or he has consulted your mother in regard to any thing he proposed to do? Whether your mother has acted for him, or on his account; or he has acted for her, or on her account? Please state fully and particularly all which has been said or done by either party in the presence and hearing of the other, touching any of the matters inquired of in this interrogatory.

12th. Whether or not the said Charles has had charge of the Massachusetts Powder magazine for any, and what, time; and whether or not he has attended to receiving and delivering the powder, and filling canisters generally or usually; or whether any other persons, and if so, who, has superintended the doing of the same?

13th. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

Cross interrogatories on behalf of the defendants to Deborah C. Tufts.

The defendants except and object to the plaintiff's interrogatories, as seeking to prove a contract for the sale of real property, or a trust in relation to the same, by parol evidence. They also object to so much of said interrogatories as are marked with a double line in the margin, as leading; and to the twelfth interrogatory as irrelevant.

1st What is your age?

2d. Have you not heard Charles Tufts say, in your mother's presence, that he only agreed to allow her to purchase said premises for five years from the time when he bought them, or something to that effect; and how many times, and when and where; either before or since 1842?

3d. Have you not heard said Charles Tufts deny that your mother had any claim on him to purchase the said premises; if yea, when and where, and how often, both before and since 1842?

4th. Has there not been a controversy of some years, and how long standing, between said Charles and your mother, as to a claim she made of a right to purchase the said premises of him; has he not denied her claim many times in your presence?

5th. Has not said Charles Tufts rendered yearly accounts to your mother almost every year for many years; was not the last account he rendered about January 1, 1843; did he not render such accounts about January 1, 1843; did he not render such accounts about January 1, 1840, January 1, 1841, and January 1, 1842; have you seen and examined said accounts; do not all the said accounts, from October, 1839, charge her with rent for said premises? Please examine said accounts, and annex them to your answers if you have them.

6th. Was it not a matter of controversy between said Charles and your mother as to how long her claim to purchase said premises was to continue?

7th. If, in answer to the plaintiff's second interrogatory, you say that your mother claimed a right to purchase the said premises of said Charles, in any conversation at which he was present, please say whether, in any such conversation, she stated what consideration she was to give for the right she claimed to purchase said premises of said Charles; did she say whether it was optional with her to purchase the said premises or not, or anything to that effect?

8th. If in answer to the second interrogatory you state any conversations at which the said Charles was present, please say when and where each conversation took place, and who was present at it; has not said Charles, in some one or more of said conversations, told your mother it was optional with him, after some, and what, lapse of time from the time of his purchasing the premises, whether to let her purchase the said premises of him or not, or something to that effect? State all that was said in said conversations, as far as you recollect them.

9th. How long did your mother, in said Charles' presence, say her claim to purchase the said estates was to continue; when and where did she so say; what did he say in reply; has he not, in your presence, one or more times told her her claim to purchase the premises was only to continue five years, or any and what other time, from the time he purchased them?

10th. Did said Anna tell said Charles she had bound herself, or made herself liable in any way, to purchase said premises of said Charles; if yea, how did she say she had bound herself, or made herself liable; where and when did the conversation or conversations take place, and what did he say in reply; and what did he say, if anything, which led her to speak on the subject?

11th. If you say that, in any such conversation between said Charles and said Anna, she said she had a right to purchase said premises of said Charles, please say what she said at the time or times, if anything, as to the time of paying for said premises, as to paying rent for the premises, or interest on the price, and the taxes; when and where did the conversation take place, and what did said Charles say in reply; and what did he say which led her to speak on the subject; have you not heard him, either before or since 1842, tell her she had forfeited all claim by not paying interest or rent regularly?

12th. If in answer to the third interrogatory you say that your mother has made any repairs, alterations, additions, betterments, or improvements on the premises, please state particularly how you know what money she paid for the same, or any part thereof; how much have you seen her pay for the same, and to whom, and what mechanics made each of the alterations, additions, betterments, and improvements you have named. Please state particularly every alteration, addition, betterment, and improvement, if any she has made, and how you know she ordered it, and how you know she paid for it, and to whom.

13th. Have you not some reason, and what, to know that the said Charles Tufts has paid for most, if not all, of the repairs, additions, alterations, betterments, and improvements put on said premises since he had the title to them?

14th. Was there not an addition made to the barn on said premises, in 1841 or 1842; was there not considerable new fencing put on said premises in 1841 or 1842; did not said Charles order and pay for the addition to the barn and the said fencing?

15th. Did not said Charles let several acres of marsh land to one Pierce, part of said premises, before the year 1842, and has not said Pierce cut and carried off the grass from said marsh land for a number of years; and did he not first cut and carry off the grass before 1842, and in what year?

16th. Did not said Charles Tufts, in 1843, sell a small piece of said premises to William Arkerson, jr.; if yea, was not said Arkerson afterwards in possession thereof, and who is now in possession thereof?

17th. If in answer to the fifth interrogatory you say that your mother ever said, in the presence of said Charles, that said Cutter and Cummings, or said Cutter and Perkins, had promised to convey the said premises to her, please say when and where the conversations took place, and who were present, and what your mother said, if anything, as to how long she was to have the privilege of buying said premises, as to whether her privilege was to be lost by her not paying rent, or interest, or taxes on the premises punctually, as to who was to pay for the repairs; whether she gave any, and if any, what, consideration for the privilege of purchasing said premises; whether she bound herself or promised in any, and if in any, in what, way to purchase said premises, and what did said Charles say, in any such conversation, on any of these points; has he not one or more, and how many, times told your mother that said Cutter and Perkins were only bound to sell the said premises to her for ten years, and that she was to lose the privilege if she did not pay rent or interest or taxes punctually, or something, and what, to that effect?

18th Has not said Charles sold sand or gravel from said premises, in the years 1842 and 1843; has he ever accounted to your mother for the price thereof; has he not, on the contrary, always claimed the price thereof as his own property; whether your mother, in 1842 or 1843, made any, and if any, what, objection to said Charles' selling the gravel and receiving the pay for it; has he not sold some sand and gravel before those years, for which he did not account to her?

19th. Did not said Charles raise money, by mortgaging the said premises, to pay his own debts; if so, when and how much; and have you not heard your mother speak of his having so raised money, and how many years ago was it since you first heard of such a mortgage?

20th. Has not said Charles made one or more written offers to sell parts of said premises to your mother? If yea, when was the first made? Please to annex any such offers to your answers, if in your power. Were not said offers made at your mother's request?

21st. What have been the pecuniary circumstances of said Anna, since the death of said Peter Tufts, jr.; have they been straitened or otherwise?

22d. Has said Anna Tufts, since said Peter's death, to your knowledge, had any, and if any what property, yielding any, and if any what income? When did she own such property; how long; does she still own it; what is its value; how do you know she owned it or owns it?

23d. Have you conversed with said Anna Tufts about this case, or the evidence you are to give in it? If yea, when and how many times, and how long?

24th. Have the plaintiff's or defendants' interrogatories in this case been read to you or by you, before you were examined by the magistrate who is taking your deposition? If yea, when, and who was present?

25th. Were you present at a conversation between your mother and said Charles, in the beginning of September last, when he informed her he had sold a part of the premises to said Wheeler? If yea, please state the whole of the conversation between them. Did she in that conversation in any way deny said Charles' right to sell? Did she not urge him to break the bargain because he had sold so low; did she not ask him at what price he would sell her the remainder of the premises; what was his reply; did he not say he would not sell it, but was willing to let it to her for five years, and let some disinterested person fix the rent?

26th. Did you not go with your mother to see said Charles' wife, soon after the conversation referred to in the last interrogatory? Did your mother then tell said Charles' wife, that said Charles had sold too low to said Wheeler; did she not tell said Charles' wife, that if anything was to be made by selling the same, said Charles ought to have it, and he had better break his bargain with Wheeler?

27th. Has not said Charles Tufts set out many or some of the trees on the premises with his own hands? Were they not trees raised in the nursery on the premises?

S. E. SEWALL,
for C. Tufts and E. Wheeler.

Answers of Deborah C. Tufts, to the interrogatories hereto annexed, on the part of the plaintiff.

1st. To the first interrogatory she says: I have always known Mrs. Anna Tufts and Charles Tufts. I have known Emerson Wheeler within a year or two. Mrs. Tufts, the plaintiff, is my mother, and Charles Tufts is my half-brother. I have always lived with the plaintiff. Charles Tufts has always lived with my mother, since my recollection, till about two years ago.

2d. To the second interrogatory she says: I have frequently, before 1842, heard my mother and other persons say in the presence of Charles Tufts and in his hearing, that the estate was my mother's when she redeemed it. In December, 1839, on the day when my mother left for

New Orleans, she said to Charles, "Now I want you to say before Samuel" (meaning her brother, Mr. Samuel Cutter, who was present) and Deborah, that the place is mine when I pay for it. He answered, "Of course." I cannot state the times of any other conversation, but in all of them it was admitted by Charles that my mother had the right to redeem the estate, on paying what he gave for it and interest. Nothing was ever said as to any limitation of time within which my mother was to exercise her right. I have heard him admit a great many times that he held it for mother and for her benefit, and that she was to have it whenever she could redeem it.

3d. To the third interrogatory she says: About fifteen years ago my mother raised the kitchen one story, and put two chambers in it. Two or three years after she built a barn. In 1838, she enlarged the barn. About three years ago she put a fence around the house. She has always kept the place in good repair, and has had it thoroughly painted more than once. She has also set out a great many fruit and ornamental trees. One improvement I forgot to mention. In 1838, she raised the shed one story. My mother superintended and directed all these improvements. Charles never interfered in any way with the doings of my mother herein, and never endeavored to prevent her making them. He never questioned her right to make them, and never claimed to have any right to say anything about them. Besides the above mentioned improvements, my mother has made changes in the interior of the house, by cutting folding doors in the parlor, enlarging the back-room, and making the kitchen smaller; all of which were done by her without any interference, remonstrance, or suggestion on the part of Charles.

4th. To the fourth interrogatory she says: My mother has carried on the business of the farm and place composing the homestead. Charles has never interfered with her doings therein, but has acted as her agent and under her directions. My mother leased the whole farm and part of the house for one year, and has also leased the marsh. Charles lived with us, knew of it, and approved of it. He did not claim to have anything to do with it. My mother has received the income, issue, and profits of the estate. I have seen her receive portions of the income. Prior to 1842, I never heard Charles claim to be absolute owner of the premises, or deny that my mother had any interest therein, or pretend to assert that my mother was his tenant. Before 1842, he never undertook to exercise any control over the estate, nor to lease the same; nor did he treat the same as exclusively belonging to him. Prior to 1842, he never claimed any rent of her, or treated her in any way as his tenant, or called upon her to account for the income or profits of the estate.

5th. To the fifth interrogatory she says: I have heard mother say, in the presence and hearing of Charles, that Cutter and Cummings (or Mr. Cutter) had taken the estate so that she might redeem it, and that when Mr. Cutter let Charles have the estate, it was on the same condition. I have heard them talk about it often, though not very frequently. I have heard him say to her, that she never would be able to re-

deem the estate, and she has answered, that she could, for she had her own time to do it in; and I never heard him deny that. Charles seemed to consider mother as the owner, and not the tenant in the place, and always spoke of it as "mother's place," but he never otherwise admitted or denied anything about the ownership till after 1842, that I know of.

6th. To the sixth interrogatory she says: Mother has sold gravel from the estate for nine or ten years, and till within two years; it has been with Charles' knowledge; he has never till within two years objected thereto or denied mother's right, but assisted in it by keeping the accounts. I can't tell how much gravel has been sold and carried away. Mother sold more five or six years ago than she has since. Since that time Charles has sold more. She told him two years ago, when he was collecting the bills for the gravel he had sold, which were made out in his name, that that money was hers, and that he must keep a correct account of every load he sold; that the sales of the gravel might go to pay off the interest and taxes on the estate, as she was willing that that part of the profits of the farm should go to pay for it. The last I know of her selling was a year ago last winter. The whole of the proceeds of the sales of the gravel made by him were to go to pay the interest on the cost of the estate, and the taxes; and Charles was not to keep any of the money without accounting therefor.

7th. To the seventh interrogatory she says: In the year 1841, and before then, in 1840 and 1839, I have heard mother say, that she would endeavor to raise some money on the estate; and in 1841 she went with him with the deeds, to see some people to try to get it. Charles never objected to this; the money was to be used, when obtained, for her purposes; and he gave the deed to her in 1841, or 1842, for this purpose. He went with her in the summer of 1841, more than once, and recommended to whom to apply, a good many times. From conversations I have heard between mother and Charles, I have learned that mother was to raise what money she could on the estate, and that with it certain drafts drawn on Charles by my brother, and accepted by Charles, were to be paid; and the money so paid by mother to Charles, or all the money she raised, was to be allowed her in payment for the estate.

8th. To the eighth interrogatory she says: In December, 1839, mother went to New Orleans, with three purposes—to try to raise money on the estate, to act as housekeeper in a hotel, (the keeper of which she had seen the autumn before, and with whom she had made an agreement so to act,) and to see my sister, in Munroe, in Louisiana, where she hoped to raise the money she wanted. Charles then lived in her family, and knew of the object of her journey, and neither objected to or encouraged her in going.

9th. To the ninth interrogatory she says: On the 8th of December, 1839, the day on which she left home, after some conversation between her and Charles, and Mr. Samuel L. Cutter, she said to Charles, just as she was leaving the house, that she wanted him "to say, before Deborah and Samuel, that the place is mine when I pay you what it

has cost;" and he said, "Of course." Mother had often before that asked him to give her a writing, saying that the place was hers; but he always said that there was no use in it, as he had said that it was hers so often. I distinctly recollect the conversation on the 8th of December, 1839; but I do not remember the details of other conversations, though I do remember that he has several times told her, or given her to understand, as I have above stated.

10th. To the tenth interrogatory she says: In 1838, a part of the house, and the whole of the land except the garden, was leased to James Stone, and the bargain was made with mother. Charles had nothing to do or to say about the matter, except, perhaps, he did some writing at mother's request. Mother leased the marsh for five years, about five years ago, to Mr. Peirce. Charles never objected to this lease.

11th. To the eleventh interrogatory she says: Mother has never been to Charles for directions about the place, but Charles has often been to her for advice or direction concerning such little things as he attended to, such as to whom to sell, and the price of gravel. She has not rendered an account of her doings to him, and he has not done so to her, except once or twice when she asked him for a settlement, when he has given her what he calls "bills." Mother has never consulted Charles as to what she should do on the premises. The gravel is the only thing about the place which Charles has had any thing to do with, and about five or six years ago he used to always consult mother about that; until the last two years he has usually consulted with her about it. He has acted on mother's account and for her; she has not acted for him or on his account, but individually on her own account. I can think of nothing more full or particular that I can state in answer to this interrogatory.

12th. To the twelfth interrogatory she says: Charles has had the charge of the Massachusetts Powder magazine for about nineteen years. He comes to town every day, and is but little there in the daytime; when he is away, mother or a man in her employ attends to receiving and delivering the powder, as well as when he is at home and engaged.

13th. To the thirteenth interrogatory she says: I know nothing more.

Answers to the cross interrogatories.

1st. To the first cross interrogatory she says: Twenty-two years of age.

2d. To the second cross interrogatory she says: I never heard any thing of any limitation as to time until within the last year, and only once, at his house, somewhere about the first of September last, when he told mother that the time had expired.

3d. To the third cross interrogatory she says: I have never heard him deny her claim, except upon the occasion referred to in my answer to the second cross interrogatory.

4th. To the fourth cross interrogatory she says: I never heard of any controversy until the year 1840 or 1841, since when there has been. I never heard him deny her claim, except once, as above stated.

5th. To the fifth cross interrogatory she says: I recollect only two accounts which he has rendered to mother; the last account I remember was rendered a year ago last summer. I don't recollect that he rendered accounts on or about the first of January, in the years 1840, 1841, 1842. I have seen the accounts he has rendered, but I have not particularly examined them. The last of the two accounts I have mentioned charges her with rent; about the other I do not recollect. I have not said accounts, and cannot annex them.

6th. To the sixth cross interrogatory she says: It was not a matter of controversy until last September.

7th. To the seventh cross interrogatory she says: She never stated any consideration which she was to give for the right to purchase the place; and she never said that it was optional with her to purchase it or not.

8th. To the eighth cross interrogatory she says: I cannot state the times or places when and where such conversations took place, nor any thing about them, more fully than I have already stated. I do not remember that Charles ever told mother that it was optional with him, after any lapse of time, whether to allow her to purchase the place or not.

9th. To the ninth cross interrogatory she says: Mother said to Charles that she had a right to purchase it whenever she pleased, that she had her own time, at his house last September, as well as at other times. Sometimes he would not make any reply, and sometimes he would say: "It is n't likely I should purchase an estate on such a condition as that," or something to that effect. I never heard him specify any time within which mother must make the purchase.

10th. To the tenth cross interrogatory she says: I have heard mother tell Charles that she felt herself bound to purchase the place, because she had so often said that she would. I can't remember when she said this, but I have heard her say it more than once. He asked her how she expected to be able to pay for it, and she said that the rise in the value of land would enable her to pay, even if she did not get from New York the funds she expected. I do not know what he said, if any thing, which led her to speak on the subject.

11th. To the eleventh cross interrogatory she says: I never heard her specify any time as a limitation of her claim. When Charles, a year ago last summer, rendered her an account with the items charged as rent, she said she knew nothing about rent—that she paid interest on the price, and the taxes. This conversation took place at our house, and Charles made no reply; he merely passed it off. He said nothing to induce her to speak, but presented the "bill." I have not heard him tell her that she had forfeited all claim by not paying interest or rent regularly.

12th. To the twelfth cross interrogatory she says: I was away from

home when a part of the alterations were made, and I cannot state the sums which mother paid. Simon Ames, of Cambridge, raised the kitchen; I can't recollect who built the barn. John Sweetser, of Charlestown, cut the folding doors. Mr. Wise, of Malden, enlarged the barn, and built the kitchen chambers. I do not remember who built the fence, or who enlarged the back room. I have already, in my answer to the third direct interrogatory, mentioned several improvements to the place which she had made; besides these, I remember a trellis-work in the garden, a closet changed to a bath room, a buttery built, an ice-house in the cellar and another out of doors, and continued improvements in the barns and out-buildings. Some of these alterations and improvements I have heard mother order, and some I have seen her pay for. The workmen always came to her for directions, and, until the year 1842, the bills were made out to mother. These alterations and improvements were paid for to the persons who made them, as I have above stated.

13th. To the thirteenth cross interrogatory she says: I have no reason so to know. I feel confident that he paid only one, and that he said was charged to her.

14th. To the fourteenth cross interrogatory she says: There was an addition made to the barn, and some new fencing put up in 1841 or 1842. Mother ordered both these done, and paid for the fencing. Charles paid for the addition to the barn, but on her account.

15th. To the fifteenth cross interrogatory she says: That mother leased the marsh to Pierce, and got Charles to make the lease. Pierce did cut and carry off the grass more than one year before 1842. I can't tell in what year.

16th. To the sixteenth cross interrogatory she says: Charles did sell in 1843 a small piece to Wm. Arkerson, jr., and I believe James Arkerson is now in possession thereof, William being dead.

17th. To the seventeenth cross interrogatory she says: Mother stated the agreement of Mr. Cutter, or Cutter and Cummings, to convey the place to her in the autumn of 1839, at our house. I can't remember whether or not any one else was then present. She spoke of the "old agreement," as she always called it, at the interview last September; and at some other times of which I cannot give the details. I never heard of any limitation as to time as to her right to purchase. She said to Charles, last September, that she did not feel it necessary to pay the interest and taxes punctually. She also said to him, that she asked it as a favor of him to pay for some repairs, saying, that he would be well paid by the rise in the value of the land; I never heard mother say to Charles that she gave no consideration for the privilege. I have heard her tell him, that as the place was bought for her, she felt bound to pay for it, and that she intended so to do. Charles said last September, that her time had expired, and this is all I have ever heard him say as to limitation of time, of the privilege of buying. The reason he gave last September for saying as he did, was, that she had lost her privilege by her not paying punctually. When mother called on him as for a favor to

pay some of the repairs, he would say that she ought to pay for them. I never heard Charles say anything as to the consideration mother gave for the privilege of buying. I have heard Charles say to mother that she agreed to pay for the place a long while ago. I never heard Charles, except in September last, say anything as to limitation in time of mother's privilege of purchase,—and I never until then heard him say, that mother would lose or had lost her privilege by neglecting punctually to pay the interest and taxes.

18th. To the eighteenth cross interrogatory she says: Charles has sold sand or gravel, or both, from the estate in 1842 and 1843, and he has not accounted to mother therefor; but he has not always claimed the price of said sand or gravel, or both, as his own property. Mother did object at first to his taking such sand or gravel, or both, because he rendered to her no account of it, but afterwards she consented to his selling it, and giving her credit for all of it, towards payment of the interest—telling him that he must keep account of every load. He has not sold any sand and gravel before those years, that I know of, for which he did not account to mother.

19th. To the ninteenth cross interrogatory she says: Charles mortgaged the place three years or more ago, for six hundred, and about two years ago he mortgaged it again for fifteen hundred dollars. I have heard mother speak of these mortgages. It is about two years since we heard of the former mortgage, and we heard of the latter mortgage only last autumn.

20th. To the twentieth cross interrogatory she says: Mother received a written offer to sell a part of the premises from Charles, first in 1841. I cannot annex such offers, as they are not in my power. When mother was trying to raise money, she used to ask for some writing to show his willingness to convey, and he used to give her little strips of paper, describing parts of the land which he would convey for certain sums of money. She would say, that she felt that she had as good right to the whole as to a part of the place, but that she would do the best she could, raise the most money she could.

21st. To the twenty-first cross interrogatory she says: Her pecuniary circumstances have not been very much straitened, but she has always had her living to get since the property was sold. She has not had money in her hands, but has expected to receive remittances from New York.

22d. To the twenty-second cross interrogatory she says: Since the death of Peter Tufts, jr., she has had no property which yielded an income.

23d. To the twenty-third cross interrogatory she says: We have never conversed; we have spoken more than once, but not in detail about my testimony, as we knew not what questions would be asked, and it was a disagreeable subject for us to talk upon. We have not spoken together on the subject over six times; I cannot state the times when, and our conversations were very brief.

24th. To the twenty-fourth cross interrogatory she says: I have never

heard or seen the plaintiff's or defendants' interrogatories before, as they are now put.

25th. To the twenty-fifth cross interrogatory she says: I was present at the conversation between mother and Charles, in September last, when mother denied Charles' right to sell as he had done. She urged him to break the bargain, as he had sold too low. She told him it would save him trouble if he would break the bargain, as she meant to try if he had a right to sell it. He said he would try, and if he could get off he would. She asked him at what price he would sell the remainder of the premises, and he would fix no price. I did not hear him say that he would not sell it, nor that he would let it to her for five years, and let some disinterested person fix the rent. He gave as a reason at that time for his selling a part of the place, that he thought that mother could not redeem it. I have already given other details concerning this conversation.

26th. To the twenty-sixth cross interrogatory she says: I did go to see Charles' wife with mother, soon after the above mentioned conversation, and heard mother tell her that Charles had sold too low to Wheeler, and that Charles ought to have any profit that was made from the sale, rather than Wheeler, and advised that Charles should break his bargain with Wheeler.

27th. To the twenty-seventh cross interrogatory she says: I have never heard and do not know of Charles' setting out any trees on the place.

DEBORAH C. TUFTS.

Sworn to before me, the tenth day of June, 1845.

GEO. S. HILLARD, *Commissioner.*

Deposition of Adeline Dowell.

In the circuit court of the United States for the first circuit and district of Massachusetts. In chancery.

Between ANNA TUFTS, plaintiff,
and
CHARLES TUFTS & EMERSON WHEELER, defendants.

Interrogatories to be administered to Adeline Dowell, of Groton, in the State of Connecticut, widow, a witness to be examined on the part and behalf of the plaintiff.

1st. Whether or not do you know the parties, plaintiff and defendants, in the above entitled cause, or either and which of them? If yea, how long have you known them, or either and which of them? Are you related and in what way to the plaintiff? Or to Charles Tufts, one of the defendants; and has the said Charles Tufts, and if so, how long and until what time, lived or boarded and lodged in the family with said Anna Tufts? And whether or not, after the death of Peter Tufts, the husband of said Anna, you lived in the same family? And if yea, until what time?

2d. Whether or not, while you were in the family, you ever heard anything said by your mother, in the presence and hearing of the said

Charles, or by said Charles, respecting any right, title, or interest of any sort, which she claimed to have in the estate where he lived? Or respecting any money or interest to be paid by her therefor? Or respecting the leasing of any part of said estate? Or making alterations, improvements, or betterments thereon? If yea, please to state what you have heard in any such conversations or conversation relative to any or either of the matters aforesaid; and the time, place, and occasion thereof. And whether or not the said Charles affirmed, or in any and what way assented to, or in any and what way objected to or denied anything and what, which was said?

3d. Whether or not your mother or the said Charles carried on the farm and business on the said estate, and superintended the same? If you say that both transacted business there, please to say whether the said Charles acted for or on account of, or as the agent of, your mother, or whether your mother acted for or on account of, or as the agent of, the said Charles; whether or not the said Charles professed to render an account to your mother of what he did on the premises or respecting the same; and did your mother profess to render an account to him of what she did on the same estate; whether or not your mother always, or generally, or ever, consulted or took directions from the said Charles, as to anything she was going or intended to do on the premises, in making repairs, betterments, or improvements, selling gravel, or renting the same, or otherwise; and whether the said Charles ever, and, if yea, whether generally or always, or usually, consulted or took directions from your mother as to anything, if anything, which he intended or was going to do on the premises.

4th. Whether or not you was present at any time when the subject of renting any, and, if any, what, part of the premises was mentioned by your mother in the presence and hearing of said Charles? If so, whether or not your mother spoke of so doing on her own account, or on account of said Charles; and whether or not the said Charles claimed, or pretended in any way, and how, to interfere, or have anything, and, if anything, what to do or say therein? Whether or not you were present at any time when any person, and if so who, applied to your mother to hire any part of the premises, and what part? Whether or not your mother made, in your presence or hearing, any bargain or agreement with any such person for letting any and what portion of the premises; and, if so, whether such person entered and occupied any portion of the premises under any such lease? Whether or not the said Charles gave any directions, or took any, and, if any, what part in making such agreement to lease the premises; or whether he in any way, and, if so, in what way objected thereto, or claimed to have anything, and, if anything, what to say or do therein?

5th. Whether or not your mother had at any time, and, if so, when, and with whom, any dispute respecting any lease of the premises, or anything done or contracted to be done under a lease thereof? If so, whether or not the same was referred to arbitrators; and whether or not the said Charles was knowing to the same; and whether the same was

done under his or your mother's directions? Please to look at the paper writing now produced, marked E, and declare whether you know your mother's handwriting from having seen her write or otherwise, and how; and, if yea, whether the signature in your mother's name is in her proper handwriting; and whether or not you know, and, if so, how, the handwriting of Stone, and, if so, whether the signature of Stone thereto is in his proper handwriting. Please look also at the paper marked F exhibited to you, and declare if you know in whose handwriting it is, and, if so, how you know it. And set forth all which you know, if anything, relative to the said paper writing, and the occasion and purpose of making it. Please also to look at the books of account now exhibited to you, and declare if you have seen them before; and, if so, where and to whom they belong. And state what, if anything, you know relative to them.

6th. Whether or not your mother, and, if yea, to what extent, sold gravel or sand from the premises? If yea, did she profess to sell on her own account, or on account of the said Charles? Did the said Charles know thereof or object thereto? Whether or not did the said Charles make any sales? If yea, whether or not did he pretend to make them on his own account, or on account of your mother, or say or do anything, and what, tending to shew on whose account they were made? Whether or not did the said Charles pretend to render an account of any sales made by him to your mother? Did your mother profess to render an account of any sales which she made to the said Charles? To whom if to any one were applications to buy gravel made, and to whom most frequently made, by purchasers? Was it to your mother, or to said Charles that they were made or most frequently made? Whether or not the said Charles ever objected to any sales of sand or gravel by your mother, or claimed or pretended to direct her therein?

7th. "Whether or not your mother ever set out or planted any fruit or ornamental trees, and if yea, to what extent, on the said estate and premises? And whether or not, if so, you know whether she set them out or planted them on her own account, or on account of said Charles?" And if so, how you know it? And whether or not she or the said Charles directed therein or superintended the same? And whether or not the said Charles knew thereof, and in any way, and if so, what way objected thereto, or claimed or pretended to have anything to say or do on his own account in regard thereto? And if so, what, and how did he object, claim, or pretend, and what did he say or do therein?

8th. Whether or not your mother or the said Charles, and which of them, built a shed on the said estate? If yea, whether or not your mother, in the presence and hearing of said Charles, spoke of any intention she had of building the same before it was built? Whether or not she spoke of building it on her own account or for said Charles? Whether or not said Charles objected thereto or assumed to have anything to do or say in the way of giving directions respecting the same,

or claimed any right to, or did in any, and if any, what way, interfere or attempt to interfere therein?

9th. Whether or not as far as you know, while you were in the family, the said Charles ever in any way, and if so how, claimed or pretended that he was the owner of the entire interest in the homestead and premises; or whether or not he ever claimed or pretended, that your mother had no interest except as tenant to him therein, or otherwise; and how said or did anything and what, tending to show what interest he or your mother had therein? State fully what, if anything, you learnt from the conversation or declarations, or from anything said or done, and what, by the said Charles, in any and what way and how, relative to the matter inquired of in this interrogatory.

10th. Whether or not you know of your mother's attempting to raise money on mortgage of the premises or otherwise, for any, and if any, what purpose? If so, was the same by her made known to the said Charles; and if so, did he know of her purpose or object in trying to obtain the same? And if you say he did, please to declare how you know it. And whether or not did he object thereto, or suggest anything, and if so, what against it, or say anything and what, to encourage or discourage your mother therein? What is the age of said Charles?

11th. Whether or not the said Charles had charge of the Massachusetts Powder magazine? If yea, who usually and what part of the time performed the duties of that charge or office while you were in the family? Who superintended the delivery and receipt of powder, and filling of canisters, and other things relative thereto?

Whether or not in the month of September, 1844, or at any and what time, you went with your mother in a chaise or carriage to meet or see her brother, Samuel L. Cutter, and where; and if so, whether you saw him, and where and what was your object in going? Whether or not before or after you so went, and how long before or after, and whether a day or more, you heard any conversation between your mother and Joseph A. Holmes of said Cambridgeport? "And if so, please to state fully what was said in such conversation. And whether your mother spoke therein of any interest which she claimed to have in the homestead and premises; or denied or admitted the right of said Charles to sell the premises."

12th. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

RAND, WARREN & FISKE,
for Plaintiff.

Cross interrogatories on behalf of the defendants to Adeline Dowell.

The defendants except and object to the plaintiff's interrogatories, as seeking to prove a contract for the sale of real property, or a trust in relation thereto, by parol evidence; and to so much of the said interroga-

tories as are marked with a double line in the margin; to so much of the ninth interrogatory as inquires what the witness learned from conversations or declarations, or from anything said or done, as asking for opinions and inferences and not for facts; to the eleventh interrogatory as irrelevant; to so much of the interrogatories as are marked with double lines in the margin, as leading and asking for matters of opinion.

1st. What is your age?

2d. Why did you cease to reside with your mother in Cambridgeport, and where have you resided since that time?

3d. Have you not heard Charles Tufts say, in the presence of your mother, that he only agreed to allow her to purchase the said premises for five years from the time when he bought them, or something to that effect; and how many times, and when and where, either before or since 1842?

4th. Have you not heard said Charles Tufts deny that your mother had any claim on him to purchase the said premises; if yea, when and where, and how often, both before and since 1842?

5th. Has there not been a controversy of some years, and how long, standing, between said Charles and your mother, as to a claim she made of a right to purchase the said premises of him; has he not denied her claim many times in your presence?

6th. Has not said Charles Tufts rendered yearly accounts to your mother almost every year for many years; was not the last account he rendered about January 1st, 1843; did he not render such accounts about January 1, 1840, January 1, 1841, and January 1, 1842; have you seen and examined said accounts; do not all the said accounts from October, 1839, charge her with rent for said premises? Please examine said accounts, and annex them to your answers, if you have them.

7th. Was it not a matter of controversy between said Charles and your mother, as to how long her claim to purchase said premises was to continue?

8th. If in answer to the plaintiff's second interrogatory you say that your mother claimed a right to purchase the said premises of said Charles, in any conversation at which he was present, please say whether, in any such conversation, she stated what consideration she was to give for the right she claimed to purchase said premises of said Charles; did she say whether it was optional with her to purchase the said premises or not, or anything to that effect?

9th. If in answer to the second interrogatory you state any conversations at which the said Charles was present, please say when and where each conversation took place, and who was present at it; has not said Charles, in some one or more of said conversations, told your mother it was optional with him, after some, and what, lapse of time from the time of his purchasing the premises, whether to let her purchase the said premises of him or not, or something to that effect? State all that was said in said conversations as far as you recollect them.

10th. How long did your mother, in said Charles' presence, say her claim to purchase the said estates was to continue; when and where did

she so say; what did he say in reply; has he not, in your presence, one or more times, told her her claim to purchase the premises was only to continue five years, or any, and what, other time from the time he purchased them?

11th. Did said Anna tell said Charles she had bound herself, or made herself liable in any way, to purchase said premises of said Charles; if yea, how did she say she had bound herself or made herself liable; when and where did the conversation or conversations take place, and what did he say in reply; and what did he say, if anything, which led her to speak on the subject?

12th. If you say that, in any said conversation between said Charles and said Anna, she said she had a right to purchase said premises of said Charles, please say what she said at the time or times, if anything, as to the time of paying for said premises, as to paying rent for the premises, or interest on the price, and the taxes; when and where did the conversations take place, and what did said Charles say in reply; and what did he say which led her to speak on the subject; have you not heard him, either before or since 1842, tell her she had forfeited all claim by not paying interest or rent regularly?

13th. If in answer to the second interrogatory you say that your mother has made any alterations, improvements, or betterments on the premises, please state particularly, if you know, whether she paid for the same, or any part thereof; how much have you seen her pay for the same, and to whom; and what mechanics made each of the alterations, betterments, and improvements you have named? Please state particularly every alteration, betterment, and improvement, if any she has made, and how you know she ordered it, and how you know she paid for it, and to whom.

14th. Have you not some reason, and what, to know that the said Charles Tufts has paid for most, if not all, of the repairs, additions, alterations, betterments, and improvements put on said premises since he had the title to them?

15th. Did not said Charles let several acres of marsh land to one Pierce, part of the said premises, before the year 1842; and has not said Pierce cut and carried off the grass from said marsh land for a number of years; and did he not first cut and carry off the grass before 1842, and in what year?

16th. Has not said Charles sold land or gravel from said premises in the years 1842 and 1843; has he ever accounted to your mother for the price thereof; has he not, on the contrary, always claimed the price thereof as his own property; whether your mother, in 1842 or 1843, made any, and if any, what, objection to said Charles' selling the gravel and receiving pay for it?

17th. Did not said Charles raise money, by mortgaging the said premises, to pay his own debts; if so, when and how much; and have you not heard your mother speak of his having so raised money; and how many years ago was it since you first heard of such a mortgage?

18th. Has not said Charles made one or more written offers to sell

parts of said premises to your mother; if yea, when was the first made? Please to annex any such offers to your answers if in your power; were not said offers made at your mother's request; have you not heard your mother speak of said offers?

19th. If in answer to the plaintiff's seventh interrogatory you say that your mother ever set out or planted any trees on said premises, please say how many she did set out; whether the trees set out were not raised on the premises; and, if not, where did she get them, and what did she pay for them; and did she pay for them or said Charles; and how do you know who paid for them.

20th. If in answer to the plaintiff's eighth interrogatory you say any shed was built on the premises, please say when the same was built, what was paid for the same, and by whom and to whom, and did you see the money paid?

21st. If in answer to the plaintiff's tenth interrogatory you speak of any attempt to mortgage the said premises, please say if said Charles Tufts had not become liable for, or paid debts of, your brother Elbridge Tufts, and so involved himself; and whether said Charles did not wish to raise money by mortgage of the premises to relieve himself; whether he has not since mortgaged the premises to raise money for himself, and when, and to what amount, and to whom?

22d. What have been the pecuniary circumstances of said Anna since the death of said Peter Tufts; have they been straitened or otherwise?

23d. Has said Anna Tufts, since said Peter's death, to your knowledge had any, and if any, what, property yielding any, and if any, what, income; when did she own such property; how long; does she still own it; what is its value; how do you know she owned it, or owns it?

24th. Have you conversed with said Anna Tufts about this case, or the evidence you are to give in it? If yea, when, how many times, and how long?

25th. Have the plaintiff's or defendants' interrogatories in this case been read to you, or by you, before you were examined by the magistrate who is taking your deposition? If yea, when, and who was present.

S. E. SEWALL,
for C. Tufts and E. Wheeler.

Answers of Adeline Dowell, to the interrogatories hereto annexed, on the part of the plaintiff.

1st. To the first interrogatory she says: I know the plaintiff, and Charles Tufts, and have always known them. I do not know Emerson Wheeler. The plaintiff is my mother, and Charles Tufts is my half-brother. I had always lived in mother's family, until I left on the 12th of November, 1839, and Charles had always lived in her family until after I left.

2d. To the second interrogatory she says: While I was in the family I never heard anything said by Charles, or by mother in his hearing, respecting any right, title, or interest of any sort which she claimed to

have in the estate where he lived, or respecting any money or interest to be paid by her therefor. I do not remember to have heard either of them say anything to the other respecting the leasing of any part of the estate, or making alterations, improvements, or betterments thereon. Charles always assented to the alterations and improvements which mother was making, and I never heard him object to anything she proposed to do.

3d. To the third interrogatory she says: Mother carried on the farm and business on the place, and superintended the same. Mother acted for herself and not on account of Charles. Charles did not profess to render to her an account of his labor on the place, but he rendered account to her of all he sold from the place. Mother did not profess to render an account to him of what she did on the estate. She always asked his opinion, as she did any of the rest of us, but she did not act under his directions. He always consulted her if he thought of anything to be done on the place, and if she objected, he always submitted to her opinion.

4th. To the fourth interrogatory she says: I have been present when mother and Charles have talked of letting the premises. Mother always spoke of so doing on her own account, and Charles never interfered with, in any way, or claimed to have anything to say or to do about it. I was present when Mr. James Stone applied to mother to hire the premises, and I heard mother make a bargain with him to let the whole farm to him for one year on shares; and he occupied the premises for a year. Charles never gave any directions, and did not do anything about it, except he drew up the lease in writing. He made no objection, and did not claim to have anything to say or to do about it.

5th. To the fifth interrogatory she says: In the fall of 1837, I think it was, there was a dispute with Mr. Stone, about his not giving an account of the things he sold, and mother tried to get him off the land. It was referred to arbitrators, under mother's directions, and with Charles' knowledge. I know mother's handwriting from having seen her write, and the signature in mother's name, upon this paper marked E, is in her proper handwriting. I do not know James Stone's handwriting, and therefore I cannot say if this signature be his. This paper marked F, is in Charles' handwriting. I know it to be his because I have so often seen him write, and this paper is the agreement for leasing, made with Mr. Stone by mother. I only know about this paper that such an one was written at the time of the leasing. The books of account, now exhibited to me, marked G and H, I have seen before at home—they were father's, and mother took them to put her accounts in. I only know about these books, that they are those in which Charles has kept mother's accounts. They are mostly in his handwriting.

6th. To the sixth interrogatory she says: Mother sold many hundreds of loads of gravel from the place; I cannot say how many. She always sold it on her own account, and Charles knew of it, and did not object thereto. He sometimes sold gravel, but always on mother's account, and always entered it on mother's books. Whenever he received the

cash, he always credited her for it as going to pay the interest of the place. Charles used to render account to mother of all sales he made, and it was not customary for her to account to him; I do not remember that she ever did. When she did not immediately receive the money for the gravel she sold, she would tell Charles she had sold so much, and ask him to put it on the books. Applications for gravel were made to mother or Charles; most frequently to mother. He never, to my knowledge, objected to any sales which mother made, or pretended to direct her therein.

7th. To the seventh interrogatory she says: Mother set out several, I know not how many, hundred trees, fruit and ornamental, on the place. I know that she set them out on her own account, because we all considered the place to be hers, and she wanted them to be set out, and did set them out. She and not Charles superintended the same. He knew of their being set out, but never objected thereto or claimed to have anything to do or to say about the matter.

8th. To the eighth interrogatory she says: Mother began to build a shed on the place just before I left the place in 1839. I heard her speak in Charles' presence of her intention to build the same before it was built. She spoke of building it on her own account. Charles did not object thereto, or claim any right to give directions or to interfere in any way with the matter.

9th. To the ninth interrogatory she says: While I was in the family, I never heard Charles claim to own the entire interest in the homestead and premises, or that mother held as his tenant only; or say or do anything tending to show what interest he or mother had in the place. It was generally understood in the family, that Charles held the place in trust for mother—to be hers when she paid principal and interest; and although I do not recollect Charles' ever saying this, I have no doubt it was spoken of in the family before him, and I never heard him express his dissent from such an understanding.

10th. To the tenth interrogatory she says: Mother, in 1841, came to Louisiana, and tried to raise money by mortgaging the place to my husband, but he did not live to complete the negotiation. She said she wanted the money to pay Charles what she owed him. I do not know if she informed Charles of her plan or purpose, and do not know whether he encouraged or discouraged her. He is about forty-one years of age.

11th. To the eleventh interrogatory she says: Charles had charge of the Massachusetts Powder magazine. He did the writing, and mother did the other duties. She superintended the delivery and receipt of powder, and filling of canisters, &c.

In the month of September, 1844, mother and I went in a chaise to see her brother, Mr. S. L. Cutter. We saw him, on the road from Weston to Framingham. Our object in going was to tell him of Charles' selling a part of the place, and ask his advice what to do.

We went in the afternoon, and the afternoon before I heard a conversation between mother and Mr. Holmes. Mother told him that Charles had sold a part of the place, when he had no right to. That

the place was hers, and that Charles held it in trust for her, and had no right to sell it without her consent.

12th. To the twelfth interrogatory she says: I can say nothing more than I have above said. Little was said in the family before I went away, in 1839, about who owned the estate, for we all supposed it was mother's; and I have heard nothing about it until I came home in the spring of 1844. All the trouble has arisen while I was away.

Answers to the cross interrogatories.

1st. To the first cross interrogatory she says: I shall be twenty-five in November next.

2d. To the second cross interrogatory she says: I left my mother's family to go to the South to teach, and I have resided since then in Bayou de Seard, near Monroe, in Louisiana.

3d. To the third cross interrogatory she says: I never heard Charles say in mother's presence, that he only agreed to allow her to purchase the said premises for five years from the time when he bought them, or anything to that effect.

4th. To the fourth cross interrogatory she says: I never heard Charles deny that mother had a claim on the premises.

5th. To the fifth cross interrogatory she says: I do not know of any such controversy; there never was any before I went away. He never in my presence denied her claim.

6th. To the sixth cross interrogatory she says: Before I went away, he used to render her accounts yearly. I left in 1839, and therefore cannot answer this interrogatory. I have not said accounts, and cannot annex them.

7th. To the seventh cross interrogatory she says: I never heard anything said by Charles or mother as to how long her right to purchase was to continue. The place was to be hers when she paid for it, with interest; but there was no stated time.

8th. To the eighth cross interrogatory she says: I never heard any such conversation.

9th. To the ninth cross interrogatory she says: I do not recollect any such conversation.

10th. To the tenth cross interrogatory she says: I never heard mother fix any time for which her claim to purchase was to continue. I never heard him say that her claim was to continue for only five years; or state any other time.

11th. To the eleventh cross interrogatory she says: I never heard mother say that she had bound herself, or made herself liable in any way, to purchase the place of Charles.

12th. To the twelfth cross interrogatory she says: I cannot recollect hearing any conversation between said Charles and said Anna, with regard to the ownership of the premises.

13th. To the thirteenth cross interrogatory she says: The shed I have before spoken of, as commenced just as I left home in 1839, was built by Mr. Wise, under mother's directions. Many other alterations and

improvements have been made on the place while I was away, but I do not know what mechanics did them, or what they were paid for doing them. I never saw mother make any payments for such work, nor do I know what, or whom, were paid. All payments were made after I left.

14th. To the fourteenth cross interrogatory she says: I have no reason so to believe.

15th. To the fifteenth cross interrogatory she says: I have no knowledge as to any of the matters inquired of in this interrogatory.

16th. To the sixteenth cross interrogatory she says: I have no knowledge as to any of the matters inquired of in this interrogatory.

17th. To the seventeenth cross interrogatory she says: I never heard that Charles raised money on the place. I never heard mother speak of such a mortgage; and I never heard that any mortgage was on the place.

18th. To the eighteenth cross interrogatory she says: I have seen one written offer of Charles' to sell a part of the place to mother. It was made while I was away; I know not when. I know not if it were made at mother's request, or not. I never heard mother speak of such offers. I have not such offers, and cannot annex them.

19th. To the nineteenth cross interrogatory she says: I cannot approximate any nearer to the number of trees than I have already. The trees were not raised on the place. Some of the fruit trees she bought of Mr. Pond, of Cambridgeport, and some of the ornamental trees she got from Medford. I do not know what she paid for them. She paid for them, as I know from seeing the bills made out in her name. I have no other means of knowledge.

20th. To the twentieth cross interrogatory she says: The shed was built by Mr. Wise in the fall of 1839. I left for the South in November, 1839, and am unable to answer this interrogatory.

21st. To the twenty-first cross interrogatory she says: I have no knowledge of any of the matters inquired of in this interrogatory.

22d. To the twenty-second cross interrogatory she says: I do not think her circumstances have been straitened; but she has always had to take boarders. She has always had enough to get along with.

23d. To the twenty-third cross interrogatory she says: She has not had any property yielding her an income. She has lived by the place and her boarders.

24th. To the twenty-fourth cross interrogatory she says: I have talked with mother three or four times, within the last six weeks, about this case, and what I knew about it. One of these times was at Mr. Rand's office, for about half an hour. The other times have been a few minutes long each. We have talked but little about it, as she knew I had been away since the trouble began.

25th. To the twenty-fifth cross interrogatory she says: I have never seen or heard these interrogatories before, as they are now put.

ADELINE DOWELL.

Sworn to before me, the sixteenth day of June, 1845.

GEORGE S. HILLARD,
Commissioner.

1888.

Deposition of Peter Eustis Tufts.

In the circuit court of the United States for the first circuit and district of Massachusetts.

Between ANNA TUFTS, plaintiff,
vs. } In chancery.
CHARLES TUFTS and Emerson Wheeler, defendants.

Interrogatories to be administered to Peter Eustis Tufts, of Cambridge, in said district, a witness to be examined on the part and behalf of the plaintiff.

1st. Whether or not do you know the parties, plaintiff and defendants, in the above entitled cause, or either and which of them? If so, how long have you known them, or either and which of them? Are you related to the plaintiff, and defendant Charles Tufts? And if so, in what way? Have you lived with the plaintiff? And if so, how long? Has the said Charles Tufts, and if so, how long, and until when, lived in the same family, or boarded and lodged with the plaintiff?

2d. Whether or not your mother has made any, and what, improvements or betterments on or to the buildings or lands of the homestead, or additions to any of the buildings, or built any buildings, or set out any fruit or other trees thereon? And if so, at what time or times, and whether while the said Charles was living with her or since, or knew of such improvements at the time? And whether the said Charles has interfered in any, and if so, what way therewith? Or said or suggested anything, and if anything, what, relative to her right so to do? Or pretended to give any, and if any, what direction therein as to the manner in which such improvement should be made? And who has directed and superintended such improvements?

3d. Whether or not you have, at any time or times, heard your mother, in the presence of the said Charles, and in his hearing, speak of making, or intending to make, any and what improvements, alterations, additions, or betterments on the premises or homestead? If so, when, and whether she spoke of making, or intending to make, them for her or his benefit or account? And whether the said Charles has on any such occasion made any, and if any, what objection thereto, or pretended in any, and if any, what way to interfere, or have anything to say, as to whether such things should be done? Or how they should be done? Or claimed that he had, or your mother had not, a right to do any such thing?

4th. Whether or not your mother, or who if any one, built any shed upon the premises; and when was it done; and whether while the said Charles was living with your mother, or since; and who superintended the same, and gave directions in regard thereto; and whether the said Charles gave any directions relative thereto, or superintended the same; whether or not your mother, ever in the presence or hearing of, or to said Charles, told how she intended to have it done; and if so, whether the said Charles gave any, and if any, what, direction or interfered in any way, and how, therein; or claimed that it belonged to

him, or not to your mother, to do any such thing; whether or not you have heard your mother say any thing, and if so, what, in regard to raising the kitchen, in the presence and hearing of said Charles; if so, when, and whether or not did the said Charles claim or pretend that he had, or that your mother had not, any right to do any such thing, and if so, what did he say relative thereto; or did he make any objection thereto; whether or not your mother, in presence of said Charles, ever spoke of these improvements, or any of them, as done or to be done for the said Charles, or as done or intended to be done for and on account of her own benefit; if yea, what did she say relative thereto?

5th. Whether or not you have ever heard your mother say any thing, and if any thing, what, in regard to letting any part of the homestead or premises to any person or persons, in the presence and hearing of said Charles; if yea, what did she say relative thereto; to whom did "she speak of having let or intending to let the same; and whether or not did she speak of letting the same on her account, or on account of said Charles; and whether or not did the said Charles say any thing, and what, or claim to have any thing, and if any thing, what, to do or to say relative thereto, or pretend that he had any right to interfere therein, or that your mother had no right to do any such thing on her own account; and if yea, what did he say; and when did any such conversation of your mother, if there was any, take place?

6th. Whether or not your mother has sold any, and if any, what quantity of sand and gravel from the premises; if so, whether the same has been sold by her on her own account and for her benefit, or exclusively for the benefit of the said Charles; whether or not you or any other, and which, if any other, of the family residing with your mother have, as agent of or for your mother, sold any such gravel or sand; if so, have you or they rendered an account thereof to your mother; whether or not the said Charles knew that sand and gravel was sold from the premises; whether or not persons wishing to buy sand or gravel applied, in any instances within your knowledge, to your mother, and bargained with her therefor; whether or not the said Charles ever "took any part in making any sale or sales; and if so, whether on his "own account or for your mother; and whether or not he was in the habit of rendering any account thereof, or of his doings therein, to your mother; whether or not you have heard your mother say any thing, and what, in presence of said Charles in regard to the selling of sand "or gravel; if yea, whether or not the said Charles ever claimed the "right so to do on his own account, on any such occasion, or denied "that your mother had any right to make sale thereof on her ac- "count, any time before 1842; or ever pretended before then to have "any, and if any, what, claim to direct your mother in any way, and "how, herein; or made any, and what, if any, objections whatever "thereto?

" 7th. Whether or not you know Joseph A. Holmes, of said Cam- "bridge; if so, please to state whether or not the said Holmes, at any "time, and if so, when and where, called upon your mother, to inquire

"on behalf of any person, and of whom, whether or not the said Charles "had any right to sell and convey the said homestead, or any part "thereof, or to make any, and what, inquiry respecting the premises, "or to make any inquiry of nearly similar, and if so, what, import, and in what words; and if yea, what answer, if any, did your mother give to him; and whether or not, on such or any other, and if on any other, on what, occasion, and when, your mother ever informed the said Holmes that she had or claimed to have an interest in the said estate and premises, or that the said Charles had no right to convey the same without her consent, or any thing to the like effect; and if yea, what did she say to the said Holmes relative thereto; and was the said Holmes at such time pretending in any, and what, way to act for himself, or for any other person, and for whom; whether or not before, or on, or about, or since the 9th September, 1844, and if so, when, you have seen the said Holmes in company with the said Wheeler upon any, and if any, what, part of the said estate, and how often, and what, if any thing, they were doing?

8th. Whether or not do you know H. M. Chamberlin, or William Hovey, jr., of said Cambridge; if yea, what is their occupation, respectively; how far do the said Hovey, Chamberlin, Holmes, and Wheeler, respectively, live from the premises occupied by your mother, and how far did they live from there on 9th September, 1844; have you seen any of the said persons at your mother's house or on the premises before that time, and if yea, how often; have you seen any one or more of them together with said Wheeler on the premises at or about that time, or before or since, and if so, when and whom, and what were they doing there?

9th. Whether or not your mother and sister Adeline, at any time, and when, in the month of September, 1844, went in a chaise or carriage to meet or see her brother, Samuel L. Cutter, for any and what purpose; and if you speak of any conversation between Joseph A. Holmes, of said Cambridgeport, and your mother, relative to any claim of your mother to any interest in the homestead and premises, or relative to any admission or denial of any right of said Charles to convey the said premises, please to set forth the whole conversation fully and particularly, and state particularly whether or not such conversation was had before or after, and how long, and whether a day, or more or less, before or after your mother and sister went as aforesaid to meet said Samuel L. Cutter.

Last. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or which may be material to the subject of this your examination, or the matters in question in this cause; if yea, set forth the same fully and at large in your answer.

RAND, WARREN & FISKE,
For plaintiff.

Cross interrogatories, on behalf of the defendants, to Peter Eustis Tufts.

The defendants except and object to the plaintiff's interrogatories, as seeking to prove a contract for the sale of real property, or a trust in relation to the same, by parol evidence, and to so much of the said interrogatories as are marked with a double line in the margin, as leading.

1st. What is your age?

2d. If, in reply to the plaintiff's second interrogatory, you say your mother has made any additions, betterments, or improvements, on the said premises, please state particularly when each addition, betterment, or improvement you have named was made, and what was the cost of each of them; what mechanic made each of them; who paid for each of them, said Charles or your mother. If you say she paid for any of them, please say how you know it, and state every payment you have seen her make for the same, and when, and where, and to whom it was made; how you know your mother ordered each of such additions, improvements, and betterments; did you hear her give the orders, when, where, and to whom, for each of them?

3d. Have you not some, and what, reason to know that the said Charles Tufts has paid for most, if not all, the additions, alterations, betterments, and improvements, put in said premises since he had the title to them?

4th. Was there not an addition made to the barn on said premises in 1841 or 1842; was there not considerable new fencing put on said premises in 1841 or 1842; did not the said Charles order and pay for the addition to the barn, and the said fencing?

5th. How many trees has your mother set out on said premises; were they not raised on the premises and then transplanted; how many and what trees, if any, has she bought and set out on the premises, when, and of whom; has not said Charles set out trees on said premises with his own hands, and how many?

6th. If, in answer to the fourth interrogatory, you say your mother built any shed on the premises, please say when she built the same; and who paid for the same. Did you see the money paid? If so, to whom, and how much?

7th. Has not said Charles sold sand or gravel from said premises, in the years 1842 and 1843? Has he ever accounted to your mother for the price thereof, as his own property? Whether your mother, in 1842 or 1843, made any, and if any what, objection to the said Charles' selling the gravel and receiving the pay for it?

8th. If, in answer to the seventh interrogatory, you say said Holmes called on your mother at any time to make any inquiry about said premises, please say if, when he called, he did not state that Emerson Wheeler had bought of Charles Tufts a certain part, and what part, of said premises; and did not said Holmes state that he called to consult her about the crops on the land said Wheeler had purchased, which crops he supposed belonged to her as tenant of the estate, and to get her to sell them so that they might be immediately taken off the land, and

the land thus be made more convenient to be surveyed, and have roads made through it, or something, and what, to that effect? What, if any thing, did he say about the crops? Was not the said conversation, between said Holmes and your mother, after the 9th of September, 1844? What means have you of fixing precisely the date of said Holmes' said conversation with your mother? What time in the day was it? Who was present at it? What was the day of the week? What was the weather—wet, or cloudy, or fair?

9th. Have you not heard Charles Tufts say, in your mother's presence, that he only agreed to allow her to purchase the said premises for five years from the time when she bought them, or something to that effect, and how many times, and when and where, both before and since 1842?

10th. Have you not heard said Charles Tufts deny that your mother had any claims on him to purchase the said premises? If yea, when and where, and how often, both before and since 1842?

11th. Has there not been a controversy of some years, and how long standing, as to a claim she made of a right to purchase the said premises of him? Has he not denied her claim many times in your presence; and when and where, and how often?

12th. Has not said Charles Tufts rendered yearly accounts to your mother almost every year for many years? Was not the last account he rendered her about January 1, 1843? Did not he render such accounts about January 1st, 1840, January 1st, 1841, and January 1st, 1842? Have you ever seen and examined said accounts? Do not all said accounts from October, 1839, charge her with rent for said premises? Please examine said accounts, and annex them to your answers, if you have them.

13th. Was it not a matter of controversy between said Charles and your mother, as to how long her claim to purchase said premises was to continue?

14th. How long did your mother, in said Charles' presence, say her claim to purchase the said estates was to continue? When and where did she so say? Please state the whole conversation between them. What did he say in reply? Has he not, in your presence, one or more times, told her her claim to purchase the said premises was only to continue five years, or any and what other time, from the time he purchased them?

15th. Did the said Anna tell said Charles she had bound herself, or made herself liable in any way, to purchase said premises of said Charles? If yea, how did she say she had bound herself, or made herself liable? Where and when did the conversation or conversations take place; and what did he say in reply; and what did he say, if any thing, which led her to speak on the subject?

16th. Did not said Charles let several acres of marsh land to one Pierce, part of the said premises, before the year 1842; and has not the said Pierce cut and carried off the grass from said marsh land for a number of years; and did he not first cut and carry off the grass before 1842, and in what year?

17th. Did not said Charles Tufts, in 1843, sell a small piece of said premises to Wm. Arkerson, jr.? If yea, was not said Arkerson afterwards in possession thereof; and who is now in possession thereof?

18th. Did not said Charles raise money by mortgaging the said premises to pay his own debts? If so, when, and how much? And have you not heard your mother speak of his having so raised money, and how many years ago was it since you first heard of such a mortgage?

19th. Has not said Charles made one or more written offers to sell parts of said premises to your mother? If yea, when was the first made? Please annex any such offers to your answers, if in your power. Were not said offers made at your mother's request?

20th. What have been the pecuniary circumstances of said Anna, since the death of said Peter Tufts? Have they been straitened or otherwise?

21st. Has said Anna Tufts, since said Peter's death, to your knowledge, had any and if any what property, yielding any and if any what income? When did she own such property? How long? Does she still own it? What is its value? How do you know she owned it or owns it?

22d. Have you conversed with the said Anna Tufts about this case, or the evidence you are to give in it? If yea, when, how many times, and how long?

23d. Have the plaintiff's or defendants' interrogatories in this case been read to you, or by you, before you were examined by the magistrate who is taking your deposition? If yea, when, and who was present?

S. E. SEWALL,
For C. Tufts and E. Wheeler.

Answers of Peter E. Tufts, to the interrogatories hereto annexed, on the part of the plaintiff.

1st. To the first interrogatory he says: I know the parties to the above cause, and have always known them. The plaintiff is my mother, and Mr. Charles Tufts is my half brother. I have always lived with my mother, and I am now nineteen years old. Charles Tufts has always lived with my mother till within two or three years past.

2d. To the second interrogatory he says: My mother has raised the shed, and built a small barn upon the said homestead, and has had a cellar wall laid. She has had fruit and other trees set out. I don't recollect the dates when these were done, but it was when Charles Tufts was living with her. He knew of these improvements at the time. He did not interfere therewith in any way. He did not say or sugges any thing relative to her right to do so. I never heard him give any directions therein as to the manner in which such improvements should be made. My mother has directed and superintended these improvements.

3d. To the third interrogatory he says: I have frequently heard my mother tell Charles Tufts of the improvements and additions she intended to make upon the premises, as the raising of the shed, the build-

ing of the barn, and the laying the cellar wall. I cannot recollect the dates. She spoke of making them for her benefit. He never made any objection thereto, and never pretended to interfere or have any thing to say, as to whether these things should be done. He never claimed, in my hearing that he had, and my mother had not, a right to do any such thing.

4th. To the fourth interrogatory he says: My mother did build a shed upon the premises. I cannot tell the date when it was done—about four or five years ago, and when Charles Tufts was living with her. My mother superintended the same, and gave directions concerning it. Charles Tufts never gave any directions, [n]or exercised any superintendence concerning it, to my knowledge. My mother frequently told Charles Tufts how she intended to have it done. He gave no directions, and did not interfere therewith. He did not claim that it did not belong to him, and did not require my mother not to do it. My mother has often talked, in the presence and hearing of the said Charles, about raising the kitchen. She talked of raising the kitchen one story. This was four or five years ago, and she has constantly talked of it since then. The said Charles never pretended that he had, and my mother had not, any right to do this, and he made no objection thereto. She always spoke, in the presence of the said Charles, of these improvements as intended to be done, and done for her benefit, and not for his; but I cannot particularly recollect the exact things she said.

5th. To the fifth interrogatory he says: I have heard my mother talk of letting the whole place, and part of the house, in the presence and hearing of the said Charles. I can't recollect particularly what she said. She spoke of intending to let them to James Stone, and she talked with Mr. Stone about it, in the said Charles' presence. She spoke of letting it on her account, and not on his. He did not say anything, and did not claim to have anything to say or do therewith. He did not pretend that he had any right to interfere therein, or that my mother had not a right to let them on her own account. I cannot recollect when these conversations took place.

6th. To the sixth interrogatory he says: My mother has sold many loads of sand and gravel from the premises. I cannot state the exact amount. This has been sold for her account and benefit, and not for that of the said Charles. I have, as my mother's agent, sold sand and gravel for her, and paid over the money to her. The said Charles knew that sand and gravel was sold from the premises. Persons wishing to buy sand and gravel have applied directly to my mother, and made the bargain with her. Charles Tufts has made sales of sand and gravel, but always on my mother's account. He was in the habit of rendering an account of his sales to my mother. I have frequently heard my mother tell Charles of the persons to whom she had engaged to sell sand and gravel. He never claimed to have the right to make sales thereof on his account, nor denied my mother's right to make sales on her account, at any time before 1842, nor pretended to have any claim to direct her, and make no objections to her selling it.

7th. To the seventh interrogatory he says: I know Joseph A. Holmes, of Cambridge. He called on my mother at her house, but I cannot tell when, to inquire whether he could purchase the fruit on the trees, or else whether he might cut down the stalks in the corn-field, in order to survey it. I heard her tell him, that Charles had no right to sell the place, and she should forbid the deed's being given. William Hovey, Emerson Wheeler, and H. M. Chamberlin, came on to the premises with him, and I presumed that he acted for them, as well as for himself. She told Mr. Holmes repeatedly, that Charles Tufts had no right to sell the place, and that he had never before sold any land without consulting her. I have seen the said Holmes in company with the said Wheeler, upon the western part of the estate, engaged in surveying it, but I cannot tell when, nor whether before or on September 9, 1844. I have seen them there many times after that date.

8th. To the eighth interrogatory he says: I know William Hovey, jr., and H. M. Chamberlin, of Cambridge. Mr. Hovey is an architect, and Mr. Chamberlin is a lawyer. Mr. Chamberlin lives about half a mile, or less, from my mother's. Mr. Holmes lives about the same distance. I don't know where Mr. Hovey lives; somewhere in Cambridgeport. Mr. Wheeler lives in Brighton. I presume they all lived on September 9, 1844, where they do now. I don't remember to have seen any of them on the premises occupied by my mother, before that time. Since that time, I have seen all of them on the premises, engaged in surveying, and more than once.

9th. To the ninth interrogatory he says: My mother and sister Adeline, in September, 1844, or thereabouts, went in a chaise to see my uncle, Samuel L. Cutter, to let him know about the place, and to ask his advice. This was after the conversation between my mother and the said Joseph A. Holmes, relative to my mother's rights in the homestead. In this conversation, my mother told Mr. Holmes, that Charles had no business to sell the place, that she did not see why he should sell it, that he had never sold any of it before, without consulting her. I don't know how long after this conversation it was that my mother went to see my uncle, but only a short time.

10th. To the tenth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: I am nineteen years old.

2d. To the second cross interrogatory he says: I cannot specify the times when these additions and betterments were made, nor can I tell the cost thereof. Mr. Wise, of Malden, was the mechanic employed. Charles paid for them by my mother's directions, and on her account, as I always supposed. I do not remember to have seen her pay for any of these betterments herself. I heard my mother give the orders for all these additions, betterments, and improvements to Mr. Wise, upon the premises; but I cannot state the times when. [See end of the deposition.]

3d. To the third cross interrogatory he says: I have heard my mo-

ther tell Charles to pay for these additions, improvements, and betterments for her, and I presume he did so, but I never saw the payments made.

4th. To the fourth cross interrogatory he says: There was an addition made to the barn, but I cannot state the time; and at about the same time there was considerable new fencing put upon the place. He ordered the fencing, and I presume paid for it. He paid for the barn at my mother's request, as before stated. At the same time, there was other fencing done at my mother's expense.

5th. To the fifth cross interrogatory he says: My mother has set out a great many trees upon the premises, but I cannot state the number. They were not all raised upon the premises, and then transplanted. She has bought and set out a great many trees, some thousands, but I cannot say when. She bought them mostly of Samuel Pond. I never saw the said Charles set out any trees upon the premises.

6th. To the sixth cross interrogatory he says: I cannot say when my mother built the said shed. I do not know who paid for it, but I heard my mother ask Charles to pay for it. I did not see the money paid.

7th. To the seventh cross interrogatory he says: The said Charles has sold sand and gravel from the said premises, but I cannot state the times when. I always supposed that he sold it on behalf of my mother, and that he accounted to her for the proceeds, but I cannot swear to this. I do not know as to my mother's making any objections to his sale of sand or gravel.

8th. To the eighth cross interrogatory he says: I do not recollect that the said Holmes said any thing as to any purchase by the said Wheeler of any part of the said premises. He did say that he called to see my mother about the crops, or the fruit, one or both, in order that they might be taken off immediately, and the land be made more convenient for roads and for surveying, but nothing was said as to her being a tenant of the estate. He wanted to know if she would sell the crops, or the fruit. I could not swear whether this was after or before the ninth day of September, 1844, and I have no means of fixing the day precisely. It was in the afternoon, I think. My sister Adeline was present, besides myself. I can't tell the day of the week. The weather was fair.

9th. To the ninth cross interrogatory he says: I have never heard Charles Tufts say in my mother's presence that he only agreed to allow her to purchase the said premises for five years from the time when *she* bought them, nor any thing of the kind.

10th. To the tenth cross interrogatory he says: I have never heard Charles Tufts deny that my mother had any claims on him to purchase the said premises.

11th. To the eleventh cross interrogatory he says: I know nothing as to any such controversy between them, and he has never denied her claim in my presence.

12th. To the twelfth cross interrogatory he says: I know nothing as to the accounts between the said parties, and I have never seen any such accounts, and none such are within my power.

13th. To the thirteenth cross interrogatory he says: I do not know that there was any controversy between them, as to how long her claim should continue.

14th. To the fourteenth cross interrogatory he says: I never heard any conversation between my mother and Charles, as to the duration of her claim to purchase. I have never heard him tell her that her claim to purchase was to continue only five years.

15th. To the fifteenth cross interrogatory he says: I never heard my mother tell Charles that she had bound herself, or made herself liable, to purchase the premises of him.

16th. To the sixteenth cross interrogatory he says: Several acres of marsh land were let to one Pierce, but I can't tell when. My impression is that they were let by my mother, and not by Charles. He did cut and carry off the grass for some years, but I cannot give the dates.

17th. To the seventeenth cross interrogatory he says: I know that Mr. Arkerson bought a piece of the premises in 1843, but whether from my mother, or Charles, I cannot say.

18th. To the eighteenth cross interrogatory he says: I do not know that Charles raised money, by mortgaging the said premises, to pay off his own debts. I never heard my mother say so.

19th. To the nineteenth cross interrogatory he says: I know nothing as to any written offers by Charles to sell to my mother. I have never seen any such offers.

20th. To the twentieth cross interrogatory he says: My mother has often been in want of money since my father's death, but has never been embarrassed or distressed to my knowledge. I should say that her pecuniary circumstances have not been straitened.

21st. To the twenty-first cross interrogatory he says: My mother has had no property, since my father's death, which yielded her any income, to my knowledge. About four years ago her father died, and left her something, but I don't know how much. I believe this was applied to pay debts on the place.

22d. To the twenty-second cross interrogatory he says: I have often talked with my mother about this case, but not about my evidence. She told me to tell what I knew. I cannot state the times of these conversations, nor how long they lasted.

23d. To the twenty-third cross interrogatory he says: These interrogatories have not been read to me, or by me, before my examination by the magistrate.

I wish to add to my answer to the second cross interrogatory, that I know that my mother paid for the laying of the cellar-wall. She paid for it in produce from the place, which was carried by me to Mr. Bailey, the mason employed. He might have sent for some of it. I also did some work for him on that account.

PETER EUSTIS TUFTS.

Sworn to before me, the thirtieth day of May, 1845.

GEO. S. HILLARD, *Commissioner*.

Deposition of Horatio Nelson Fiske.

In the circuit court of the United States for the first circuit and district of Massachusetts.

Between ANNA TUFTS, plaintiff,
and
CHARLES TUFTS and Emerson Wheeler, defendants. } In chancery.

Interrogatories to be administered to Horatio Nelson Fiske, of Weston, in said district, a witness to be examined on the part and behalf of the plaintiff.

1st. Whether or not do you know the parties, plaintiff and defendants, in the above entitled cause, or either and which of them? And if yea, how long have you known them, or either and which of them? And how often have you seen said Anna or Charles? Whether or not you and your family have visited at the dwelling-house of the said Anna Tufts, or she and her family, or the said Charles, has visited at your house? If so, how frequent intercourse has there been between you?

2d. Whether or not the affairs and concerns of said Anna Tufts have been talked of in your presence, and in presence of said Charles, on any such visit, or when you have seen them together, at any time? And if so, whether she has ever spoken of her interest in the homestead where she lived? Or of her having made, or intended to make, any improvements or betterments thereon? Or of her having added to, altered, or repaired the buildings, or intending so to do? Or of her having planted or set out trees, or made other improvements upon the estate, or intended so to do? If so, whether the said Charles has ever denied or objected to anything of the kind which she has said? Or said anything tending to show that she only hired the estate of him? Or that he owned it?

3d. Whether or not you have ever made inquiry of the said Charles, whether he or his mother, the said Anna, owned the said estate, or any similar and what inquiry? If so, what reply did the said Charles make thereto? Have you made any such inquiry of the said Charles more than once? If so, how many times? And how much time elapsed between your inquiries? And when did you last make inquiry of him? And what answers did he then give to you? Was your last inquiry of him after, or before, he was married? Whether or not did he on any such occasion assent or pretend that he owned the said estate or homestead? Or did he speak of it as uncertain, or unsettled, whether he should become the owner thereof? Or speak of his mother as having or making any claim therein or thereto? And what did he say in answer to your inquiry? Please to set forth, fully and particularly, what you inquired of him, and what he said, and the language which he used, with the time, place, and occasion, and all the circumstances minutely, as nearly as you can recollect?

4th. Whether or not did you, at any time or times, purchase any and what trees of the said Anna Tufts, which were growing on the homestead where she lived? If so, when did you make such purchase? And did

the said Charles or not know thereof, or assent or object to the removal thereof?

5th. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answers.

RAND, WARREN & FISKE,
For plaintiff.

Cross interrogatories, on behalf of the defendants, to Horatio Nelson Fiske.

The defendants object to the plaintiff's second, third, and fourth interrogatories, as endeavoring to prove a contract for the purchase of real property, or a trust in relation to the same, by parol evidence.

1st. Have you ever resided in Cambridge? When, and for how long?

2d. How long have you resided in Weston?

3d. How long ago did the conversations inquired of in the plaintiff's second interrogatory take place?

4th. How long ago did the conversations inquired of in the plaintiff's third interrogatory take place? And where?

5th. Are you sure said Charles Tufts was present at all the conversations referred to in your answer to the plaintiff's second interrogatory?

6th. Do you not know that said Charles Tufts has disputed the claim of said Anna Tufts, to a right to purchase the said premises of him, for seven or eight years, or a longer or shorter period? If you know that he has disputed her claim, please say how long it is since you first heard of it?

7th. Have you conversed with said Anna Tufts about the evidence you are to give in this case, and about this case? If yea, when; how many times; and how long?

8th. Have the interrogatories in this case been read to you, or by you, before you were examined by the magistrate who is taking your deposition? If yea, when; and who was present?

S. E. SEWALL,
For C. Tufts and E. Wheeler.

Answers of Horatio N. Fiske, to the interrogatories hereto annexed, on the part of the plaintiff.

To the first interrogatory he says: I am well acquainted with Mrs. Tufts and Charles Tufts; I do not know Wheeler, that I know of. I have known Mrs. Tufts and Charles eighteen or twenty years, or more, and have seen them lately once a year or so. Our families have visited each other, but I can't say just how frequently; I should think about once a year. I can't say that my family have been at her house within four or five years; she has been at mine within that time. Mr. Tufts hired me about a year before his death, and I worked for him for two years.

1804.

2d. To the second interrogatory he says: I have heard Mrs. Tufts and Charles talk about her affairs and concerns, and she has spoken of her interest in the homestead, and of having improved and added to the buildings; I have not heard her speak of having set out trees, or of intending to do so, in his presence. Charles never in my presence denied or objected to what she has so said. I have asked him who owned the estate, and he has told me that his mother owned it, but that he expected to have to take it. I can't say that she was present when he said this; I don't know that he ever, in her presence, ever said any thing tending to show that he owned the estate, or that she hired it of him.

3d. To the third interrogatory he says: I have asked of Charles who owned the place, I should think three times, perhaps a year and a half apart, I can't say just how long; and he has said that the place was his mother's, but that he expected that he should have to take it. I asked this of him last in 1842, I think, after he was married, and he gave me the above answer. He gave me that answer whenever I asked him; he is a still man, and of few words, and he said about the same thing each time. He never called the place his, or spoke of any other uncertainty about it, than that he might have to take it. I don't know of his speaking of any claim of his mother's thereto; he has always called it hers. I cannot state more fully or particularly about these conversations, as my memory is not good. They took place when they came to see us, or I went to see them; and the last one took place in 1842, I think, near the garden of the place.

4th. To the fourth interrogatory he says: I bought some trees of Mrs. Tufts some ten or twelve years ago; Charles was present, and did not object to their sale or removal.

5th. To the fifth interrogatory he says: When Mr. Tufts was showing me the kitchen when it was raised, I says to him, "Who does it?" and he says, "Mother." I do not think of any thing else I can say.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: I have never resided in Cambridge. When Mr. Tufts hired me, I worked for him in Roxbury; he kept the powder magazines in both places.

2d. To the second cross interrogatory he says: I have resided in Weston twelve years or thereabouts.

3d. To the third cross interrogatory he says: The last of such conversations was somewhere in 1842, since he was married; the first was five or six years before that time; I can't say just when.

4th. To the fourth cross interrogatory he says: The last time he told me the place was his mother's, was in 1842; I can't say when, before then, he told me so. It was when we were at each others' houses.

5th. To the fifth cross interrogatory he says: I am not sure that he was present at all such conversations.

6th. To the sixth cross interrogatory he says: The first time that I

ever heard that there was any such dispute between them, was within the last three months.

7th. To the seventh cross interrogatory he says: At Mrs. Tuft's request I went with her to her counsel, and told him what I knew of the case; since then Mrs. Tufts came once to my house, and asked me to come here and give my testimony. I have never talked with her about my evidence, and never about the case, except on the day when I went to her counsel—and then not five minutes—about two or three months ago.

8th. To the eighth cross interrogatory he says: I have never seen, nor heard read these interrogatories before, as they are now put to me.

H. S. FISKE.

Sworn to before me, the twenty-eighth day of June, 1845.

GEORGE S. HILLARD,
Commissioner.

Deposition of Daniel P. Wise.

In the circuit court of the United States for the first circuit and district of Massachusetts:

Between ANNA TUFTS, plaintiff,
and
CHARLES TUFTS & EMERSON WHEELER, def'ts. } In chancery.

Interrogatories to be administered to Daniel P. Wise, of Malden, in the said district, carpenter, a witness to be examined on the part and behalf of the plaintiff.

1st. Whether or not do you know the parties, plaintiff and defendants, in the above entitled cause, or either, and which of them? And if yea, how long have you known them, or either, and which of them?

2d. Whether or not you have for any, and if any, what time, been intimate with the family of the said Anna Tufts, and with the said Charles Tufts? If yea, how often during your intimacy were you at the dwelling-house of the said Anna; and how long did you stay at a time; and who composed the family of the said Anna during your intimacy? And whether or not Charles Tufts, one of the defendants, was, during that time, or any and what part thereof, a member of, or lodger with, her family? And whether or not you was intimate with said Charles and the plaintiff? Whether or not the affairs and concerns of the family, and of said Anna, were freely talked of, or communicated to you by the plaintiff in the presence of said Charles, or by said Charles?

3d. Whether or not at any, and what time or times, you were employed as a carpenter, by the said Anna Tufts, to make any alterations in, or additions to, or repairs of, the buildings on the premises, or to do any work as carpenter upon the premises? If yea, what alterations, additions, or repairs did you make, and what work did you do on the premises, and in what year or years, and what in the whole was the cost and expense thereof? And whether or not the said Anna employed you to do the same on her own account, or for her benefit, or how

otherwise? And to whom was the same originally charged? And whether or not the said Charles Tufts knew thereof? And whether he admitted or denied that all or any such charges, or expenses for any of the purposes aforesaid, were the proper debts of the said Anna? Or whether or not he said anything, and if anything, what, and when, and on what occasion, relative thereto, or as to the obligation of the said Anna to pay the same? Whether or not any such additions, alterations, repairs, or carpenters' work made or done on the premises, was done under or according to the orders and directions, and superintendence of the said Anna, as to what should be done, and how it should be done, or otherwise? And whether the said Charles ever gave any orders or directions relative thereto? Whether or not during all or any, and what part of the time when the same was in progress, the said Charles lived with the said Anna, or was one of her family? Whether or not the said Anna ever, and if so, when and how often, in the presence and hearing of the said Charles, spoke of making any other improvements, and what improvements, upon the premises? And whether or not, if so, she mentioned any object or purpose which she had in view in so doing? And particularly whether she spoke of making other additions to the house, or raising the kitchen, or building a barn, or making any improvements upon the lands, on any such occasion? And if yea, what she said relative thereto? And whether or not the said Charles, in reply, ever said or intimated, and if so, how, that she had no right, or interest, or claim in the premises, to authorize her making any such repairs, or additions, or alterations, or improvements? And whether or not he ever forbid her so doing? Or ever interfered with her orders and directions in regard to the repairs or additions, or alterations, or improvements, if any, which she did make? Or assumed in any way, and if so, how, to have any direction or control over, or interest in, the same? And what, in your estimation, was the amount of the expense of all the improvements, if any, which she did make on the premises after the death of her husband?

4th. Whether or not the said Charles, on any, and if any, what occasion or occasions before 1842, and when, ever stated to you what interest or claim he pretended to have upon, or in the said lands and premises? And if yea, what claim or interest did he say that he had therein or thereon? And whether he admitted or denied that the said Anna Tufts had any interest therein, or that he held the same for her account? Or that she was to have the same on any, and what terms? Or that he was the sole and exclusive owner thereof? Or how otherwise? And what was said by him or by Anna Tufts, in his presence and hearing, and not by him denied, at any time before 1842, relative to the matters herein inquired after? Whether or not at any time before the period next before mentioned, anything was said or done by said Anna or Charles, tending to shew that he was the exclusive owner of the entire interest in the said lands and estate, or that she was a tenant of the said Charles? If yea, what was it? And when said or done?

5th. What was the occupation of the said Charles Tufts, at the time

when you first became acquainted with him? And what has been his occupation since that time? And what if any emolument did he derive therefrom? If during any of the time he has been employed as a clerk, please to state for what salary or wages, and whether or not it is in addition to his board, or whether he has paid for his board out of his wages? And if he had at any time charge of the Massachusetts Powder magazine, please state whether he obtained the appointment by his own exertions, or by or through the exertions of any one else, and of whom? What was his age in January, 1831? And whether or not had he any property, except what he received from his wages, and for the charge, if he had charge, of the said Powder magazine? If so, what property had he, derived from any other and what source? And was or not your intimacy with him and the said Anna such that they communicated to you freely, or confidentially, their respective private business and concerns?

6th. Whether or not the said Anna, during your acquaintance with her family, and while the said Charles was a member thereof, sold any gravel or sand, being part of the homestead before mentioned, to be, and which was, carried off by the purchasers for their use? If so, at what times? To what extent? And who made the bargains with the purchasers? And did the said Charles interfere, or direct therein, or object thereto, or take any, and if any what, part in the matter?

7th. Whether or not for the ten years last past, or longer, and if yea, how long, it has been a matter of general or any and what notoriety, in the neighborhood of the said homestead, or in that part of Cambridge called Cambridgeport, or was known and how extensively, that the said Anna had occupied the premises since Peter Tufts' death, and claimed to have an interest in the said homestead, other than as a tenant for years, or at will? Please state what you know, fully and particularly, relative thereto.

8th. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this case, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

Cross interrogatories to Daniel P. Wise on behalf of the defendants.

The defendants object to the third, fourth, fifth, sixth, and seventh interrogatories, as endeavoring to prove a contract for the purchase of real property, or a trust in relation to the same, by parol evidence; and to the seventh interrogatory, as asking for hearsay evidence. They also object to such parts of the third interrogatory, against which he has drawn a double line in the margin, as leading. They also object to the fifth interrogatory as irrelevant.

1st. Who paid you for the carpenters' work you did on said premises? Was it not said Charles Tufts? To whom did you charge the same?

2d. If you say you made any additions or alterations to said premises,

please state particularly what alterations and additions you made, the price charged for each addition and alteration, to whom the same was charged, and who paid you for the same?

3d. Did you not raise a shed on the premises, in the year 1839 or 1840? Did not said Charles object to its being done, and did he not give his consent only on condition that said Anna would pay for the same? Did she not expressly agree with said Charles, that she would pay for the same? Did you not carry her the bill for raising the shed? Did she not refuse to pay it, and refer you to said Charles? Did not said Charles afterwards pay you for the same, and what did he say when he paid you? Did he not say that he paid it, though he had not agreed to, rather than have you lose your money?

4th. If you, in answer to the plaintiff's third interrogatory, make any estimate of the value of the improvements which you suppose her to have made on the premises, please state particularly each of such improvements, the probable cost thereof, how you know they were done by her orders, and whether you know of your knowledge that said Anna Tufts paid for the same? If you know of her making any such payments for improvements, please state particularly when, where, and to whom, they were respectively made? The amounts paid, and for what work?

5th. If in any of your answers to the plaintiff's interrogatories you state any conversations of plaintiff, please state when and where they took place, and whether you are sure said Charles Tufts was present at all such conversations. And please to state all of such conversations at which he was present.

6th. Have you ever done any carpenter's work on the said premises, at the request of said Charles Tufts? If yea, when, and to what amount? To whom was the same charged, and who paid you for the same? And what was the said work, repairs, or improvements?

7th. Have you had any conversation with said Anna Tufts about this case, or your testimony in the case? If yea, when; how many times; and how long?

8th. Have the said Anna Tufts' interrogatories to you been read, to or by you, before they were proposed to you by the magistrate who is taking your deposition? If yea, when, and who was present?

S. E. SEWALL,
For C. Tufts and E. Wheeler.

Answers of Daniel P. Wise, to the interrogatories hereto annexed on the part of the plaintiff.

1st. To the first interrogatory he says: I am well acquainted with Mrs. Tufts and Charles Tufts; Mr. Wheeler I do not know. I have known Charles and Mrs. Tufts about ten years

2d. To the second interrogatory he says: I have kept up an intimacy between Mrs. Tufts and Charles Tufts since I first knew them some ten years ago. I have been at Mrs. Tufts' house twice a year, on an average; I have stayed there, while occupied in my business, once as long

as two weeks, once as long as one week, and more than once two or three days at a time. Her family was composed of herself, Charles, (who left three or four years ago when he was married,) and his own two brothers, Elbridge Tufts, Gorham Tufts, Peter Tufts, Anna Tufts, Adeline Tufts, and Deborah Tufts. Charles, and his own brothers, were sons of Mr. Tufts by a former wife, the rest were children of Mrs. Tufts, the plaintiff. Besides these, there were almost always others staying in the family, either as boarders or friends. I was intimate with Charles and the plaintiff; I have often freely talked with the plaintiff and Charles, separately and together, about the affairs and concerns of the family.

3d. To the third interrogatory he says: At some time in the years 1837, 1838, and 1839, I built for Mrs. Tufts a hall, intended for sleeping rooms, over a shed; I built also a large shed or barn. I also built for Charles a fence round the magazine, or rather repaired it, and put up a gate. I did other work about the premises; all that was requisite to keep them in good repair. I cannot state in which year these jobs were done, nor their exact cost, without my books. They cost over five hundred dollars; I mean my charges for work, and the lumber which they furnished, cost over five hundred dollars. Mrs. Tufts employed me for her own benefit, and on her own account; but Charles afterwards paid me, she referring me to him for the amount of the bills. The charges were originally made to Mrs. Tufts, except those repairs I made for Charles round the magazine, which were charged to him. Charles Tufts knew of the charges, because, when I was staying there in order to put up the sleeping hall, he told me, in a long conversation we had, that he thought his mother was unwise in spending so much before she paid off the outstanding debts of the concern. He admitted that these expenses were the debts of his mother; he told me when I first presented the last bill to him that she ought to pay it, and he did not pay me for ten months. This bill was for the barn, and some repairs on the house. He told me not to bring any more bills of her contracting to him for payment, when he settled this last bill. All the additions, alterations, repairs, or carpenter's work, except round the magazine, was done under her directions how it should be done. Charles, and she, and I, used to consult about the best ways, but the consultations were as to the best way of carrying out her wishes. Charles gave some orders as to the setting of the posts under the hall, and of what kind they should be. Charles lived in his mother's family during all the time this work was done. A consultation was had between Mrs. Tufts, Charles, and myself, as to raising the roof of the house, and making it a gable roof, and as to changing the addition to the house from one and a half stories to two stories high; but this plan was not carried out. She proposed to make these changes to make more room in her house to accommodate boarders. By "addition," I mean the kitchen part of the house. There was some talk about increasing the size of the barn, with the intention of having greater accommodations for the horses and vehicles of her boarders, as she said; and I never heard Charles say

that she had no right, or interest, or claim so to do. He never, to my knowledge, forbade her so to do; he never interfered, farther than I have stated, with her orders and directions; he never exercised any direction or control in the matter, and his only interest seemed to be to promote the general welfare of the family. About five hundred dollars would cover all the improvements which I know to have been made by her on the premises; but these were all made within the last ten years.

4th. To the fourth interrogatory he says: From a conversation which I had with Charles, during my visit there to build the hall in the summer of 1838 or 1839, I gathered an impression, which I retained until within about two months, that Charles had a mortgage on the place for about four thousand dollars, about half the then value of the place. I do not pretend, and cannot give his language, but from what he said I had the impression that he held a mortgage, and, therefore, that his mother had an interest in the estate, inasmuch as she might redeem it by paying the amount of the mortgage; and, therefore, that he was not the sole and exclusive owner of the place. Mrs. Tufts frequently told me that her wishes and plans were all to raise money, or to obtain a larger income, in order to pay off the outstanding claims on the estate, which I supposed were in Charles' hands. She has told me so when the family were present, but I cannot say certainly that Charles was ever present when she said so; I am confident that Charles never, in my presence, contradicted what she so said. I never heard Charles or his mother say any thing tending to show that he was the exclusive owner of the estate, or that she was his tenant; on the contrary, I have heard them discuss a division of the estate between them, each to take a part.

5th. To the fifth interrogatory he says: Always, since I have known Charles Tufts, he has been a clerk in Boston. I do not know what was his salary, or whether he paid his board or not; but I have heard his salary was about four hundred dollars a year. I have understood that his appointment as keeper of the powder magazine was obtained by means of his mother. I should judge that he was about twenty-two years of age in 1831. I understood that he had a four thousand dollar mortgage on the place, besides his wages and salary as keeper; and I know of no other property of his. My intimacy with him and Mrs. Tufts was such, that they communicated to me freely their private business. I used to sleep with him when I stayed there, and we used to talk over matters a good deal; but he is not a communicative man to any body about his own affairs.

6th. To the sixth interrogatory he says: I have known of persons getting leave of Mrs. Tufts, and taking gravel from a large gravel pit on the place, at various times when I have been there, and to a large extent, but I cannot say how large. She made all the bargains with the purchasers, that I know any thing about; and I never knew of Charles interfering or taking any part in the matter.

7th. To the seventh interrogatory he says: It is the general belief among the neighbors, and among the people in Cambridgeport, with

many of whom I have talked within the last ten years, that she has occupied the premises since her husband's death, and that the place was hers, and encumbered with a mortgage, but that she had the entire jurisdiction of the place.

8th. To the eighth interrogatory he says: I believe I have already given all the information in my power.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: Charles Tufts paid me for the carpenter's work I did on the premises. Part was charged to Charles, and part to Mrs. Tufts.

2d. To the second cross interrogatory he says: I built the hall for sleeping apartments; the large shed or barn, the fence, scuttles, water-trough, gate, fence round the magazine, repaired the junction of the kitchen and house, and did some other work, the details of which I don't remember. The materials were furnished by the Tufts, and I charged only for the labor of myself and my hands; I therefore cannot fix the price of each alteration or addition. They were all, except the fence round the magazine, charged to Mrs. Tufts, and they were all paid for by Charles Tufts. I cannot state, without my books, the amounts I charged for the labor.

3d. To the third cross interrogatory he says: I raised a shed or barn on the premises, I think in the year 1839. I cannot remember that Charles objected to it, or that he consented only on condition that Mrs. Tufts should pay for the same. I cannot remember if she agreed with Charles that she would pay for the same. I do remember that there was a conversation about that shed, but I cannot recollect what was said. I carried her the bill for raising the shed. She did not refuse to pay it, but referred me to Charles, who afterwards paid me, and told me that, if I did anything more for her, I must get my pay from her, for he would not pay any more of her bills. He said it was none of his business, and that she ought to pay it, but that he would pay it this once rather than have me lose my money; he did not say, "though he had not agreed to." I am not sure that I did not alter the bill, so that it read against him.

4th. To the fourth cross interrogatory he says: I cannot, without my books, give dates or sums. I charged only for my labor and that of my men, and can only make a guess at the costs of the alterations and improvements. The probable cost of the hall was from $250 to $200. That of the shed, cellar, and all, from $150 to $175. That of the fence round the magazine might have been $15. That of the fence round the house, and several small fixtures, $60 or $75. Charles Tufts paid me for my work by her direction, and that is all I know about it. I cannot state the exact times of payment. She ordered me herself to do these things, and referred me to him for payment.

5th. To the fifth cross interrogatory he says: I am confident that Charles was present when we talked about raising the house and kitchen. He was not present at all the conversations I heard in the family, but

he used to be there in the mornings and evenings, and seemed to be interested in the general welfare of the family. Years have passed, and I am unable to give a more accurate answer to this interrogatory.

6th. To the sixth cross interrogatory he says: I have made repairs on the fence round the magazine to the amount of about $15. The magazine stands on the estate near the water. I made the repairs in 1839, I believe, at Charles Tufts' request, and I charged them to him, and he paid me for them. I made a bill of these repairs, at Charles' request, to some persons whose names I have forgotten, who, he told me, were agents in some way for the commonwealth with regard to the magazine, and he paid it at the same time with a bill to his mother for work done for her.

7th. To the seventh cross interrogatory he says: About six weeks ago Mrs. Tufts came to my house, and asked me to go and see her lawyer, and talked with me about half an hour about it. She came again a fortnight ago, and staid about twenty minutes, and asked me to come here to give my deposition. She came again last night for the same purpose, but we did'nt talk of the case. These are all the times

8th. To the eighth cross interrogatory he says: They have not before been read to or by me.

DANIEL P. WISE.

Sworn to before me, the twelfth day of June, 1845.

GEO. S. HILLARD,
Commissioner.

Deposition of Charles Cooke.

In the circuit court of the United States for the first circuit and district of Massachusetts.

Between ANNA TUFTS, plaintiff,
and
CHARLES TUFTS and Emerson Wheeler, defendants. } In chancery.

Interrogatories to be administered to Charles Cooke, of Roxbury, in the county of Norfolk, in said district, lithographer, a witness to be examined on the part and behalf of the plaintiff in the above cause.

1st. Whether or not do you know the parties, plaintiff and defendants, in the above cause, or either and which of them? And if yea, how long have you known them, or either and which of them?

2d. Whether or not, in the year 1839, or at any time before or after that time, you and your family, or any of them, did board or lodge at the house occupied at such time in Cambridge by the plaintiff, Anna Tufts? If yea, at what particular time and how long did you, or any of your family, so board or lodge there? And how often, and for what portion of the time, if any, you were there? And whether or not you took your meals with the plaintiff's family or otherwise? And were you or not intimate with the members thereof? And who composed the family of the plaintiff resident there at that time? And whether or not Charles Tufts was then one of the family of the plaintiff? And

who superintended and transacted, or chiefly transacted, the affairs and business of said Anna Tufts? And if said Charles Tufts had any agency in transacting any of her business, was it under her direction, or did he advise and direct her therein?

3d. Whether or not you ever had any conversation with the said Charles Tufts, or with the said Anna in the presence and hearing of the said Charles, touching any interest which she claimed in the dwelling-house and lands in Cambridge, where she then lived, and which formerly belonged to her late husband? Or touching the borrowing of any money for her upon mortgage of the premises? Or touching the title to the same premises, or the manner in which it had been or was then held? Or as to who was in equity, or beneficially, or otherwise, interested therein? If yea, please to declare and set forth what was said by the said Charles Tufts, and by the said Anna, in any such conversation on any or either of these subjects. And whether the said Charles denied any, and if any, what, part of what was said by the said Anna, or admitted, and if so, how and in what way, the truth thereof; and state the time, and place, and occasion of the said conversation or conversations as nearly as you are able. If the said Anna in any such conversation spoke of the title of the premises, please declare whether or not she spoke of any interest she claimed therein. Or of any terms or trust on which the premises had been held by Ammi Cutter, or Cutter and Cummings, or Cutter and Perkins, for herself. Or on which the same premises were then held by said Charles for her benefit. And if so, what she said relative thereto. And on what occasion. And whether the said Charles denied or admitted, and if so, how and in what way, the assertions of the said Anna. And, if the said Anna in any such conversation spoke of borrowing any money for her upon such mortgage of the premises, please declare whether or not she spoke of the purpose for which the money was wanted. Or of the uses to which it was to be applied. And if yea, what did she say relative thereto? And whether or not did she say anything, and if so, what, relative to paying any bills or debts contracted relative to the premises or otherwise? And whether or not, in any such conversation, or in any conversation in the presence of said Charles, she, the said Anna, did assert that she had an interest in the premises? Or that the same were held by said Charles for her benefit? Or anything and what of like or similar import? And what, if anything, did she say relative thereto? And did the said Charles deny the same, or in any way, and if so, how and in what way, assent thereto, or admit the same to be true? And please to set forth the times, places, and occasions as nearly as you can. And whether or not you had frequent, and if yea, how frequent conversations on any and which of the matters above inquired of in this interrogatory? And whether, if the said Anna ever spoke of her interest in the premises in the presence and hearing of said Charles, she so spoke of it more than once, or repeatedly, and how often, or how many times, as nearly as you can recollect?

4th. Whether or not at any time, and if so when, said Anna

Tufts applied to you to raise any and what sum of money upon the homestead or premises by mortgage thereof? And whether or not the said Charles had knowledge of such application? And whether or not she applied to you to raise the money for her use, or for that of the said Charles? And whether or not, in the presence and hearing of the said Charles, she spoke of the uses and purposes to which she intended to apply it; or whether he understood or was informed thereof, and if so, what such uses and purposes were? Whether or not the said Charles went with her, or you, to assist in making any such loan or mortgage for the said Anna? And whether or not for any such purpose he delivered to you the title-deed or deeds of the premises? And whether or not, in any conversation respecting any such loan, in the presence and hearing of the said Charles, the said Anna gave a history of the title, and therein asserted that she had any, and if so what, interest in or claim to the premises? And whether the said Charles admitted, and if so how and in what way, or denied, that she had any such interest or claim? Whether or not you were instructed, or any thing was said as to the rate of interest to be stipulated for in such proposed loan? If so, who gave the instructions, or directed as to the terms of the loan; and whether or not the said Charles was also directed or instructed relative thereto, and what was said relative thereto? Whether or not did you make any and what applications? And were they made in the name of said Anna, or how otherwise; and if in her name, did said Charles know thereof, or make, or attend with you to make, any such application for her and in her name?

5th. Whether or not the said Anna, in the presence and hearing of the said Charles, at or about the time of the attempt to make any such loan, if any was attempted, or before or after, or at any time, spoke of any additions, alterations, repairs, or improvements, which she had made, or intended to make, in or to the buildings, or any of them, on the homestead aforesaid or on the lands? If yea, what additions, alterations, repairs, or improvements, in particular, were mentioned? And whether or not did she speak of them as being made, or to be made, at her expense, and for her benefit, or otherwise? And whether or not did she say what, if any thing, she had expended, or intended or expected to expend, therein? And whether or not did the said Charles, on any such occasion, ever deny that she had any such interest in the premises as would authorize her to make such alterations, additions, repairs, or improvements; or ever assume to have any direction or control over the same, or any interest therein? And if so, what part or interest did he take therein?

6th. Whether or not the said Anna Tufts, while your family or you were at her dwelling-house, sold any sand or gravel, being part of the said homestead, to be carried off by the purchasers? If so, to what extent? And whether it was known to said Charles? And whether it was objected to, forbidden, or in any way, and if so how, assented to by him? And by whom was the price fixed and the bargains made with purchasers? Whether or not the said Anna, in the presence and hearing of said Charles, or the said Charles, spoke of any sales of sand

or gravel having been made at any time by the said Anna? And, if yea, whether the said Charles objected thereto, or in any and if any way how assented to the doings of the said Anna therein? And whether such sales, hereinbefore inquired of, were made for the benefit of the said Anna or of the said Charles? And whether the said Charles appeared in any, and if in any way how, to take any interest therein, or interfered in any instance, and if so how, therewith?

7th. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them; or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

Cross interrogatories to Charles Cook, on behalf of the defendants.

The defendants object to the second, third, fourth, fifth, and sixth interrogatories, as seeking to prove a contract for the purchase of real property, or a trust in relation to the same, by parol evidence; to all inquiries, in said interrogatories, whether said Charles Tufts expressly or tacitly admitted any thing, or assented to any thing, as asking not for facts, but for mere inferences and matters of opinion; and to the part of the sixth which inquires whether said Charles appeared to take any interest therein, for the same reason.

1st. If, in answer to the plaintiff's interrogatories, you say you had any conversation with said Anna Tufts, or said Charles Tufts, in regard to obtaining money by a mortgage of said premises, please to say whether the object of raising the money was not to pay a debt or debts of said Charles Tufts, which he had become liable to pay on account of Elbridge Tufts, his half brother, and a son of said Anna Tufts.

2d. Did you not understand, at the time you were endeavoring to raise money by a mortgage of the said premises, from said Anna or said Charles, either and which of them, that said Elbridge Tufts had failed, and that said Charles Tufts had accepted and paid drafts of said Elbridge; or that said Elbridge was in some way indebted to said Charles; or that said Charles was in some way liable for some debt or debts of said Elbridge, in consequence of which it became necessary for said Charles to mortgage the said premises?

3d. Were you not informed by said Anna, or said Charles, either and which of them, at the time a mortgage of said premises was talked of, that the object of mortgaging the same was to pay a debt or liability of said Charles, arising out of his liabilities for said Elbridge, or arising in any, and if any what, other way?

4th. Have you had any conversation with said Anna Tufts about this case, or your testimony to be given in it? If yea, when, where, and how many times; and how long?

5th. Have said Anna's interrogatories to you been read to or by you, before they were proposed to you by the magistrate who is taking your deposition? If yea, when; and who was present?

S. E. SEWALL,
For Ch's Tufts and E. Wheeler.

Answers of Charles Cooke to the interrogatories hereto annexed on the part of the plaintiff.

1st. To the first interrogatory he says: I have known Mrs. Tufts and Charles Tufts about six years. I do not know Emerson Wheeler.

2d. To the second interrogatory he says: In the autumn of 1840 my wife boarded for about four weeks in the family of Mrs. Tufts. I think it was partly in September and partly in October; it was before our marriage. I was there as a visitor, on an average, about twice a week. I sometimes took my meals in Mrs. Tufts' family. I was on intimate terms with Mrs. Tufts and her children. Her family consisted of Charles Tufts, Deborah Tufts, and Peter E. Tufts. I think Mrs. Tufts superintended and transacted her own affairs. Whatever of her business Charles did was done under her direction.

3d. To the third interrogatory he says: Some time in the month of September or October, 1840; I had a conversation with Mrs. Tufts, in the presence and hearing of Charles Tufts, about borrowing money on a mortgage of the premises on which she lived. She said she wanted to borrow a certain sum, I think two thousand dollars, on a mortgage of these premises. She wanted to borrow it for three years, and pay six per cent., but would not pay any bonus for the money. She said she owed debts contracted for the estate, and that they must be paid, and that she was harassed about them. She said there was already a mortgage of fifteen hundred dollars (I think that was the sum she named) on the premises, which she would be willing to take up, if she could get the loan she desired. She asked me to aid her in obtaining this loan. Charles heard all this conversation, but said nothing at all, neither for nor against. He took no part in the conversation, but sat perfectly silent. I attempted to raise the money for her, but found I could not do it on the terms she required. This is the only conversation I remember to have ever had with Mrs. Tufts upon any of the matters inquired of in this interrogatory, in the presence of the said Charles Tufts, and I am not able to give any further answer to any of the matters herein inquired of.

4th. To the fourth interrogatory he says: As I have before stated, Mrs. Tufts did apply to me, some time in September or October, 1840, to raise a sum of money (two thousand dollars, I think) upon the said homestead. Charles Tufts had knowledge of the application. She wanted me to raise it for her use. She did speak, in the presence of Charles, of the uses she wished to apply the money to; she said she wanted it to pay off debts which had been contracted for the benefit of the estate. Charles did not go with me (or her, to my knowledge) to assist in making this loan; he did not deliver to me the deeds of the estate. Mrs. Tufts did not, in any conversation with me, in the hearing of Charles, give a history of the title, and assert that she had an interest therein. I was instructed by Mrs. Tufts to hire the money, at six per cent. interest; but Charles was not instructed or directed relative thereto, to my knowledge, otherwise than by hearing what Mrs. Tufts said to me on the subject. I made applications to various persons for

the money in her name, and I have every reason to believe that Charles knew thereof; he did not attend with me to make any such application, nor do I know about his making any.

5th. To the fifth interrogatory he says: I think that Mrs. Tufts said, in the presence and hearing of Charles, that a portion of the money she wanted to raise was to pay for additions and improvements to the estate, but she did not specify what they were; she spoke of them as having been done and made by her for the benefit of the estate; I don't recollect that she spoke of any particular sum as expended by her; the said Charles heard what she said, but made no reply, and said nothing; he never assumed to have any direction or control over the same, to my knowledge.

6th. To the sixth interrogatory he says: I do not know any thing of the sales of sand and gravel, and never heard Mrs. Tufts speak of them in the presence of Charles.

7th. To the seventh interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: Her object was not to pay any such debt of Charles Tufts, to my knowledge, but to pay off the debts contracted for the benefit of the estate.

2d. To the second cross interrogatory he says: I did not understand from either of them that Elbridge Tufts had failed, and that Charles was in any way liable for any debt of his, in consequence of which it became necessary for Charles to raise money by a mortgage of the premises, or any thing of the kind.

3d. To the third cross interrogatory he says: I was not informed by either of them that the object of the mortgage was to pay off a debt of Charles.

4th. To the fourth cross interrogatory he says: I have had one conversation with Mrs. Tufts about this case, and my testimony, at my office, about three or four months ago, and of about five minutes in length.

5th. To the fifth cross interrogatory he says: The said interrogatories have not been read by or to me before to-day.

CHARLES COOKE.

Sworn to before me, the eleventh day of August, 1845.

GEORGE S. HILLARD,
Commissioner.

Deposition of Elias Kinsley.

In the circuit court of the United States, for the first circuit and district of Massachusetts.—In chancery.

Between ANNA TUFTS, plaintiff,
and
CHARLES TUFTS and EMERSON WHEELER, def'ts.

Interrogatories to be administered to Elias Kinsley, of the city of Boston, in said district, plasterer, a witness to be examined on the part and behalf of the plaintiff.

1st. Whether or not do you know the parties, plaintiff and defendants, in the above entitled cause, or either, and which of them; and if yea, how long have you known them, or either, and which of them?

2d. Whether or not, in the year A. D. 1829, or before or after that time, and if so, when, did you, in behalf of yourself and copartner, or otherwise, make application to any one, and whom, to buy any part of the lands or estate, being part of the homestead formerly owned by Peter Tufts, now deceased, late husband of the plaintiff; and if so, in whose name did the said lands and estate then stand, or who held the deed thereof? And did you so apply to the person having the deed thereof; and if so, whether or not was you sent or referred to the plaintiff, or any one else, by the person holding the deed thereof, to make a bargain for such portion of the premises as you wanted to buy?

3d. If you were sent or referred to, or applied to the plaintiff in behalf of yourself and copartner, or otherwise, to purchase any portion of the premises, please declare whether or not you concluded a bargain with her for any, and if any, what portion thereof, at any and what price; and whether or not the person or persons having the title-deed thereof interfered in any, and if any way, how, or directed in any, and if so what way, in making the bargain; and whether or not the bargain was made in the presence of the person or persons holding the title-deeds, or in his or their absence; and if in his absence, whether or not he made the conveyance accordingly, or required any, and if any, what, alteration in the terms; or whether or not he assumed in any way, and if so how, to have any thing, and what, to do in regard thereto; if so, whether or not it was otherwise than to convey to you, agreeably to the bargain you made with the plaintiff? Please state the transaction fully and particularly, with the circumstances of time and place, and declare to whom you paid the purchase money, and if you know whether or not the plaintiff had credit therefor by the person to whom it was paid, if it were not paid to the plaintiff; and what are your means of knowledge in respect thereto?

4th. Whether or not you, in behalf of yourself and copartner, or otherwise, have at any time or times, and if so when and how often, purchased of the plaintiff any, and if any, what, quantity of sand or gravel, being part of the premises or homestead aforesaid, for the purpose of removing and carrying the same away, and applying the same to your own use; and if so, did you carry the same away, and apply the same accordingly; and whom did you pay therefor; and if you, in any instance, paid the money into the hands of Charles Tufts, please state whether or not he had any thing, and if so, what, to do with making the bargain for the sand or gravel you bought; or whether or not it was paid to him for the said Anna, or how otherwise?

5th. Whether or not you know of the plaintiff's selling any gravel or sand, being part of the homestead aforesaid, to any other persons; if yea, whether or not were the sales made with the knowledge of the said Charles Tufts? If you say that you or any one bought gravel or sand, with the knowledge of said Charles, from the premises, whether or not

did he ever, in any way, and if so, how, interfere or forbid the sales, either when you or any one else bought gravel or sand, being part of the homestead; and whether or not the plaintiff, in these instances, assumed or undertook to sell the gravel and sand on her own account, or as the proprietor thereof, or as the agent for any one, and whom, else; and whether she made many sales, and how many; and whether or not she continued from time to time, for any considerable, and if so, what, length of time, to make any such sales, and during what years; and whether or not her proceedings herein were known to the said Charles Tufts, and where he was residing at the time? Please declare fully and particularly all you know or have heard in the presence and hearing of Charles Tufts, and not by him denied, relative to the premises, with all the circumstances.

6th. Do you know or can you set forth any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

RAND, WARREN & FISKE,
For plaintiff.

Cross interrogatories, on behalf of said defendants, to Elias Kinsley.

The said defendants object to the plaintiff's second, third, fourth, and fifth interrogatories, as seeking to prove a contract for the purchase of real property, or a trust relative to the same, by parol evidence. They also object to so much of the third interrogatory as inquires "whether the person having the title deed assumed to have anything to do in regard thereto otherwise than to convey;" and to so much of the fourth interrogatory as inquires whether said Charles Tufts "had anything to do with making the bargain for the sand or gravel;" and whether it was paid to him for said Anna; and to so much of the fifth interrogatory as inquires whether or not the plaintiff undertook to sell the gravel and sand on her own account, and as the proprietor thereof, as leading, and as asking not for facts, but for opinions and inferences of the witnesses. They also object to all parts of the interrogatories marked in the margin with a double line as leading.

1st. If, in answer to the third interrogatory, you say that you know the said Anna Tufts had credit for any money you paid to any other person with the person to whom you paid it, please say how you know she had credit for such sum. Have you ever examined the books of the person to whom you paid the money? If yea, what entry was made therein, if you recollect the same?

2d. Did you not pay all the money you paid for the purchase of any part of the estate, formerly of Peter Tufts, to Ammi Cutter, or the firm of Cutter and Cummings, and when? Have you not a deed from said Cutter, or Cutter and Cummings?

S. E. SEWALL,
For Ch's Tufts and E. Wheeler.

Answers of Elias Kingsley, to the interrogatories hereto annexed, on the part of the plaintiff.

1st. To the first interrogatory he says: I have known Mrs. Tufts and Charles Tufts about sixteen years. Emerson Wheeler I do not know.

2d. To the second interrogatory he says: In the spring of 1829 I did, in behalf of myself and partner, apply to Mr. Ammi Cutter to buy an acre of land belonging to the Tufts' place. Mr. Cutter held the deed of the estate in his own name. I did so apply to the person having the deed thereof. Mr. Cutter referred me to Mrs. Tufts; and told me that any arrangement I could make with her he would consent to.

3d. To the third interrogatory he says: I concluded a bargain with Mrs. Tufts for one acre for one hundred dollars. It is my impression that, when we had made the bargain, Mr. Cutter made the deed, and said nothing about it; he was not present at the making of the bargain. He made the conveyance according to the bargain, without any alteration in the terms. All he assumed to do in the matter was to make a conveyance according to the bargain we made with Mrs. Tufts. It was sixteen years ago, and I do not remember particularly the circumstances. I went with my partner to Cambridge in search of a lot whereon to put a starch factory. We found a lot of one acre, on the Tufts estate, which suited us, and we went to Mrs. Tufts, supposing she owned it. After some conversation with her as to her willingness to sell, price, &c., she referred us to Mr. Ammi Cutter, saying that she could not sell without his consent; to whom we went. He told us that he would consent to any bargain we should make with Mrs. Tufts. We then concluded the bargain with her, took a deed from Mr. Cutter, and paid him the purchase money. I do not know if the plaintiff had credit or not therefor by Mr. Cutter.

4th. To the fourth interrogatory he says: My partner and I purchased gravel of Mrs. Tufts, in the summer of 1831, or thereabouts. We carted it away, during all of one summer, at a rate of two or three four-horse wagon loads a day. I paid for it to Charles Tufts; he had a good deal to do with the making the bargain for it; we talked with him and Mrs. Tufts, and it is my impression that he always consulted her before he closed a bargain. I do not know anything of it in my own knowledge, but my impression is, that we paid for the gravel on Charles' receipt, and with the belief that he was acting for his mother, or that it was on their joint concern.

5th. To the fifth interrogatory he says: Sales of gravel were made to others, and with Charles Tufts' knowledge, as I know, from his telling me of them. Charles never, to my knowledge, interfered with such sales; but, on the contrary, he made all the sales I know of, either on his own account or as agent of his mother. I do not know whether Mrs. Tufts undertook to sell gravel, as proprietor or as agent; but my impression then was that she was the owner of the estate. I know not how many sales she made. Others were hauling away gravel while I

was. About the year 1830 I saw teams hauling from there, but I know not how much they hauled, nor when they ceased. I cannot tell if her proceedings herein were known to Charles, but I have no doubt but that they were. He was residing with her at the time. So many years have passed that I cannot declare anything more fully and particularly than I have already done.

6th. To the sixth interrogatory he says: I do not recollect anything which I can give in answer to this interrogatory.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: I have already said that I do not know whether or not Mr. Cutter gave Mrs. Tufts credit for the hundred dollars which we paid him. I have never examined his books.

2d. To the second cross interrogatory he says: We paid all the purchase money to Mr. Ammi Cutter, and I believe our deed was from Cutter and Cummings. I never, to my knowledge, saw Mr. Cummings. We bought the lot in April or May, 1829, and if we had a deed or not from Cutter and Cummings, it was passed when we passed the land, about the year 1833.

ELIAS KINGSLEY.

Sworn to before me the eighteenth day of June, 1845.

GEO. S. HILLARD, *Commissioner*.

Deposition of Isaiah Bailey.

In the circuit court of the United States for the first circuit and district of Massachusetts. In chancery.

Between ANNA TUFTS, plaintiff,
and
CHARLES TUFTS & EMERSON WHEELER, defendants.

Interrogatories to be administered to Isaiah Bailey of Cambridge, in said district, a witness to be examined on the part and behalf of the plaintiff in the above cause.

1st. Whether or not do you know the parties, plaintiff and defendant in the above entitled cause, or either and which of them? If yea, how long have you known them, or either and which of them? Whether or not you know the homestead and premises occupied by the plaintiff in said Cambridge, and formerly belonging to her late husband, Peter Tufts? If yea, whether or not you live near, and how near to the premises? And how long have you lived there?

2d. Whether or not you have done any, and if any, what work as a mason, or in your line of business, upon the said premises? If yea, when? Or at what time or times? And what was the amount of the expenses thereof? And who employed you to do the same, and who superintended the doing thereof? Or gave you directions relative thereto? And by whom, and in what way, were you paid for the same? And

whether or not any, and if any, what building was put thereon? And who was employed in constructing such building, as the carpenter?

3d. Whether or not you have seen any and what quantities of gravel carried from the premises since you have lived in Cambridgeport? And if yea, during what years? And whether you know of fruit trees having been planted and set out on the premises? And if yea, to what extent? And whether or not the said Anna has had the possession of the premises since you have been in the neighborhood? And managed the same? And whether or not she has superintended the same in like manner as if she were the proprietor thereof, or how otherwise?

4th. Whether or not you know H. M. Chamberlain, Joseph A. Holmes, and William Hovey, jr., of said Cambridge, or either and which of them? If yea, whether or not, on and before 9th September, 1844, they or any, and which of them, resided in that part of Cambridge called Cambridgeport? If yea, how far did they live respectively from the premises occupied by the said Anna Tufts? And how long had they at that time lived there? And how far from the said premises does Emerson Wheeler live? And whether or not the said Wheeler used to be ever, or frequently, or how often, before the period referred to in this interrogatory, at said Cambridgeport, on business or otherwise? And whether or not have you seen the said Wheeler, Hovey, Holmes, and Chamberlain, or any and which of them, at or about the same period, or soon after or before, and how long after or before, together or otherwise on the premises, or any part thereof? And if yea, what were they, or any of them, doing there? And when did you see them or any of them there? And whether or not they, or any of them, and if yea, who, and when, and where, offered to sell to you any part thereof? And whether anything was said by the said Wheeler on any such occasion, relative to the value thereof? And whether the said Wheeler, or they, or either of them, in his presence and hearing, and without his denial, said anything, and if anything, what, relative to their being concerned in the purchase thereof from said Charles Tufts, or relative to any profit which would or might be made thereby? If so, state fully and particularly all which was said relative to the premises.

5th. Do you know, or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

RAND, WARREN & FISKE,
for Plaintiff.

Cross interrogatories on behalf of the defendants to Isaiah Bailey.

The said defendants object to the plaintiff's interrogatories, as seeking to prove a contract for the purchase of real property, or a trust relative to the same, by parol evidence. They also object to so much of the plaintiff's third interrogatory as inquires, whether said Anna Tufts

"superintended the same in like manner as if she were proprietor thereof," because it asks for an opinion or inference, and not for a fact.

1st. To whom was the work you did on said premises charged in your books? And who paid you for the same? Please annex copies of your accounts for work done on said premises, and exhibit your books to the magistrate, and identify the same?

2d. If you say you know of fruit trees having been set out on said premises by said Anna Tufts, please to say when they were set out; and whether they were not trees raised on the said premises? And whether you knew of your own knowledge that said Anna paid for setting out said trees? If you say she did, to whom did she pay for the same, and how much, and when?

3d. If in answer to the plaintiff's fourth interrogatory, you mention any conversation as having taken place between you and said Wheeler, Hovey, Chamberlain, and Holmes, please to say, as nearly as you can, on what day it took place, and whether you will swear positively that it was before or after 9th day of September, 1844.

4th. Have you conversed with said Anna Tufts about the evidence you are to give in this case? If yea, when, where, and how long?

5th. Have you read the interrogatories of said Anna Tufts to you, or heard them read, before they were proposed to you by the magistrate who takes your deposition? If yea, when? And who was present?

S. E. SEWALL,
For Chs. Tufts and E. Wheeler.

Answers of Isaiah Bailey to the interrogatories hereto annexed to the part of the plaintiff.

1st. To the first interrogatory he says: I know the parties, plaintiff and defendants. I have known Mrs. Tufts and Charles Tufts five or six years, and I have known Emerson Wheeler three or four years. I know the said premises occupied by Mrs. Tufts. The land on which I have lived for eight years adjoins Mrs. Tufts' estate.

2d. To the second interrogatory he says: In 1841 or 1842, I can't say which, I built a bank wall on the premises, which served to keep up the bank, and as foundation for a building. Its cost was about fifteen dollars. In 1840 and several other years, I did some whitewashing and some little mason work about the inside of the house, the cost of which was about five dollars. I was employed by Elbridge Tufts to build the wall, and Mrs. Tufts employed me to do the other work, and superintended the doing thereof, and gave me directions relative thereto. Elbridge Tufts superintended the building of the wall, and gave directions relative thereto. When I settled for all the work I had done, I did so with Elbridge Tufts, and was paid in produce from the place. A building was placed on the wall I built, which it was proposed to finish as a place to cook for hogs in, but I don't know how it has been used. I don't remember who was employed as carpenter upon this building.

3d. To the third interrogatory he says: I have seen teams carrying away gravel from the premises every year since I have lived there, till with-

in the last year; I cannot tell the quantity I have seen carried away. I have seen several hundred small trees which appeared to have been recently set out on the premises, but I cannot state their number or kinds. I should think Mrs. Tufts had been in possession, and managed the premises, since I have been in the neighborhood. As far as I know, she has superintended the premises as if she were the proprietor thereof.

4th. To the fourth interrogatory he says: I know H. M. Chamberlain, Joseph A. Holmes, and Wm. Hovey jr., and they all now reside, and did reside, in Cambridgeport, before September 9, 1844. Mr. Chamberlain and Mr. Holmes then lived a little short of half a mile from Mrs. Tufts, and had lived within that distance of her place since I lived in the neighborhood. Mr. Hovey has lately moved into a house about three quarters of a mile from Mrs. Tufts, but I think he has been within that distance of her place since I have lived where I do. Emerson Wheeler lives about two miles from Mrs. Tufts. I should think he used to be in Cambridgeport almost every day. I saw Messrs. Wheeler, Hovey, Holmes, and Chamberlain together upon the premises some time in September last. They were laying out roads upon the place. As they on that day passed my door, I had some conversation with all of them, except Mr. Hovey, about their selling to me a lot of about ten thousand feet, and each one made his own price for the land. Wheeler then fixed a price, per foot, for this land. I do not think that anything was said by Wheeler, or by them in his presence, relative to their being concerned in the purchase thereof from Charles Tufts, or relative to any profit which would or might be made thereby.

5th. To the fifth interrogatory he says: I know nothing more.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: Such work was, I think, charged to Mrs. Tufts, and it was paid for in produce from the estate. I will endeavor to furnish a copy of my accounts, and to exhibit my books to the commissioner. One bill was charged to Elbridge Tufts, which I have omitted in my book. I hereto annex a copy of said bill. This was also paid in produce from the estate.

2d. To the second cross interrogatory he says: I am unable to state anything of my own knowledge in answer to this inquiry.

3d. To the third cross interrogatory he says: I cannot state the day on which such conversation took place, but I feel quite confident that none such took place before the 9th day of September, 1844. I cannot swear whether it was before or after that day, but it was about that time.

4th. To the fourth cross interrogatory he says: Mrs. Tufts asked me, night before last, to come here and give my testimony; and while at my house she said a few words to me about it, and this is the only conversation we have ever had about it.

5th. To the fifth cross interrogatory he says: I have never heard or seen these interrogatories before now. ISAIAH BAILEY.

Sworn to before me, the eighth day of August, 1845.

GEO. S. HILLARD,
Commissioner.

Copy from Mr. Bailey's book.

Mrs. Anna Tufts to Isaiah Bailey, Dr.

1839,	October,	to mason work - - - -	$1 33
1840,	April 3,	to whitewashing six ceilings - -	3 00
	August,	" " " - -	1 50
1841,	October 6,	to fixing oven - - - -	67
	Nov. 23,	to stopping round funnel - -	25
1842,	October 13,	to fixing oven, finding mortar - -	1 00
	January 6,	" " sheet iron -	67
1843,	May 9,	to whitewashing - - -	2 00
	May 27,	to setting stove - - - -	75

Copy of the bill not on Mr. Bailey's book.

Mr. Elbridge Tufts to Isaiah Bailey, Dr.

1842.		To laying thirty perch of stone wall, a 3*s* per perch, - - - -	$15.
		Am't of bill ren'd - - -	8 42
			$23 42

The item in this bill to Elbridge Tufts, of $8.42, as "Am't of bill ren'd," is the amount of the bill to Mrs. Tufts, of which a copy is here above, except the two last items of that bill.

Paper marked A, annexed to the deposition of Isaiah Bailey, compared by me with his book, and certified to be a correct transcript.

GEO. S. HILLARD, *Commissioner.*

Deposition of Moses Hadley.

In the circuit court of the United States for the first circuit and district of Massachusetts. In chancery.

Between Anna Tufts, plaintiff,
and
Charles Tufts & Emerson Wheeler, def'ts.

Interrogatories to be administered to Moses Hadley, of the city of Boston, in said district, toll-gatherer, a witness to be examined on the part and behalf of the plaintiff in the above cause.

1st. Whether or not do you know the parties, plaintiff and defendants, in the above entitled cause, or either and which of them? And if yea, how long have you known them, or either and which of them?

2d. Whether or not you knew Peter Tufts, late of Cambridge, in said district, in his lifetime? And whether or not you know, and if yea, how long you have known, the homestead, farm and premises, in Cambridge, where the said Peter lived? And whether or not you have, since said Peter's death, as agent of the proprietors of the West Boston Bridge, or otherwise, contracted for, or bought any gravel or sand from, and which was part of, the said premises? If yea, when, and in what years? And to what extent? And to what amount in

value in the whole, as nearly as you can recollect? And where was the same carried and used? And with whom did you make the bargain or agreement, as to the price? And whether or not you made more than one, or how many, bargains or agreements for sand or gravel, to be taken from said premises? And whether or not the price was always the same, or varied? If you say that you made any such bargain or agreement with Anna Tufts, the plaintiff, please to state whether you made all the bargains with her? And whether or not it was known to Charles Tufts, that such gravel or sand was so bought and carried from the premises? And whether he ever objected thereto, or denied the right of the said Anna to sell the same? And how it came to pass that you made application to said Anna? And whether or not any other persons bought gravel, and carried it from the said premises? And to what extent in the whole? And what amount in value, since the said Peter's death, of sand and gravel has, as nearly as you can estimate or set forth, been sold and carried from the premises? And who have bought gravel or sand, and carried it from the premises?

3d. Whether or not the premises are generally, or how extensively, known to the inhabitants of that part of Cambridge called Cambridgeport? And whether the plaintiff is generally, or how extensively, known there? And if so, whether it is a matter of any, and what notoriety, that the said Anna had been, since her husband, said Peter's, death, or on 9th September, 1844, in possession of the premises, occupying and improving the same, and having the management, and carrying on the farm there? And whether or not, previous to 1844, she had, and if so, whether or not it was a matter of any, and if any, what, notoriety, that she had, made any repairs, additions to, or alterations in, the buildings, planted or set out any fruit trees, or made any other improvements or betterments on the premises, or sold gravel or sand from the premises? Please to set forth, fully and particularly as you may be able, to what extent, if any, such things were matters of common, or general, or any, notoriety in the vicinity.

4th. Do you know, or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same, fully and at large, in your answer.

RAND, WARREN & FISKE,
For plaintiff.

Cross interrogatories, on behalf of the defendants, to Moses Hadley.

The said defendants object to the plaintiff's second and third interrogatories, as seeking to prove a contract for the purchase of real property, or a trust relative to the same, by parol evidence; and to the third interrogatory as asking for hearsay evidence.

1st. Have you not sometimes bought sand and gravel from said premises of said Charles Tufts? Have you not sometimes paid him for

gravel or sand taken from said premises? If yea, when, and how many times?

2d. Has not said Charles Tufts sometimes sold sand or gravel from said premises to other persons?

3d. Have you not received bills for sand or gravel from said premises, made out in the name of said Charles Tufts? If yea, in what years?

4th. Did not Charles Tufts refuse to allow you to offset a bill for toll due from said Anna Tufts against a bill which he rendered to you for sand or gravel? If yea, in what year?

5th. Has not said Charles Tufts told you that he owned said premises? If yea, in what years? Has not said Anna Tufts told you so too?

S. E. SEWALL,
For Ch's Tufts and E. Wheeler.

Plaintiff objects to the first clause of the fifth cross interrogatory, inquiring of the declarations of the defendant, Charles Tufts.

Answers of Moses Hadley, to the interrogatories hereto annexed, on the part of the plaintiff.

1st. To the first interrogatory he says: I am acquainted with the plaintiff and the defendants as they pass the bridge, and have so known them for several years.

2d. To the second interrogatory he says: I used to know Peter Tufts, and have known his farm ever since he bought it, some five and twenty years ago, I should think. I have, as such agent, bought gravel from the place. I cannot, from memory, state when, or to what extent; but I have bought it, in various quantities, for ten or fifteen years. I have bought perhaps one hundred dollars' worth in all, but I cannot state with exactness how much. It was used on the causeway. I made the bargains, as to price, with Mrs. Tufts. Sometimes I used to ask Charles, at the toll-house, if I could have some, and I may have asked him about price, but I don't remember to have done so. I usually went down to Mrs. Tufts' house. I have made several bargains with her for gravel; I cannot say how many. The prices have varied, from four-pence to fifteen cents a load. I did not make all the bargains with Mrs. Tufts. Charles knew that the gravel was sold, because I used to pay him therefor. He never objected to it until January, 1844, that I recollect. He then said that I should not have paid his mother for some gravel we had just had of her. I went to Mrs. Tufts, because I supposed that she owned the place and the gravel. Other persons have bought gravel there; I cannot tell to what extent; I should think to the value of over one thousand dollars, if she charged others as she did us. I do not know who has bought gravel there, except Barzillai Wheeler.

3d. To the third interrogatory he says: I am unable to say anything about the general belief as to these matters inquired into. I have not conversed with the inhabitants of Cambridgeport as to what was notorious in regard to the place. I have known Mrs. Tufts as living on Pe-

ter Tufts' farm, as frequently passing the bridge, where she kept an account, and as one from whom we could buy gravel. This is as full and particular an answer as I am able to give to this interrogatory.

4th. To the fourth interrogatory he says: I have always supposed that the farm was Mrs. Tufts', and that Charles was acting for her, though most of the bills for gravel were made out in Charles' name. This is all I can give in answer to this interrogatory.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: I think I have bought gravel of Charles, or bargained with him for it, as he passed the toll-house, when we wanted gravel. I have generally paid Charles for the gravel we have had; I cannot say when, or how many times, but quite a large number of times. We have bought many hundred loads of gravel.

2d. To the second cross interrogatory he says: In all probability Charles has sold gravel to other persons, but I don't know myself.

3d. To the third cross interrogatory he says: We have received bills for gravel, made out in the name of Charles Tufts, in 1834 and 1842, and other years, which I cannot state.

4th. To the fourth cross interrogatory he says: Charles did refuse to allow a bill for toll of Mrs. Tufts to be offset against a bill for gravel, some two or three years ago; I cannot remember exactly when. We did not, I think, pay for the gravel until the bill for toll was paid.

5th. To the fifth cross interrogatory he says: Charles told me, in 1843 or 1844, that the farm belonged to him; Mrs. Tufts never told me so. MOSES HADLEY.

Sworn to before me, the thirteenth day of June, 1845.
GEO. S. HILLARD, *Commissioner.*

UNITED STATES OF AMERICA, *District of Massachusetts:*

City of Boston. On the several days as hereinbefore stated, the aforesaid deponents came before me, and, being by me severally and carefully sworn to tell the truth, the whole truth, and nothing but the truth, they gave severally the foregoing depositions, and subscribed the same in my presence, which were reduced to writing by me, or by Samuel E. Guild, esq., acting as my clerk. These depositions were taken by virtue of the commission hereto annexed, and to be used in the case therein mentioned; and all the directions contained in the said commission were carefully observed by me in the execution thereof.
GEO. S. HILLARD, *Commissioner.*

Commissioner's fees - - - -	$100 00
Deponent's " - - - -	16 25
Travel* - - - - -	5 00
Summons to court - - - -	5 70

*The travel of Adeline Dowell and Elbridge Tufts is not assessed herein, as I am not informed whether they came for the express purpose of giving their testimony, nor do I know the distance of their several residences. GEO. S. HILLARD, *Commissioner.*

Deposition of Anna T. Hughes.

In the circuit court of the United States, for the first circuit and district of Massachusetts, in chancery.

Between Anna Tufts, plaintiff, and Charles Tufts and Emerson Wheeler, defendants.

Interrogatories to be administered to Anna T. Hughes, of Munroe, in the State of Louisiana, a witness to be produced and examined on the part of the plaintiff:

1st. Whether or not do you know the parties, plaintiff and defendants, in the above entitled cause, or either, and which, of them; if yea, how long have you known them, or either, and which, of them; are you in any, and if any, what, way related to Anna Tufts or Charles Tufts aforesaid, or to Peter Tufts, late of Cambridge, in the State of Massachusetts, deceased?

2d. Whether or not have you known the homestead and premises in Cambridge aforesaid, where said Peter Tufts last lived; if so, whether or not the said Anna has occupied the same premises for any, and if any, what, time since the said Peter's death; if yea, whether or not you have lived with her, or in her family, any, and if any, what, part of the time heretofore, since said Peter's death; and if yea, whether or not the said Charles has lived there at the same time, or any, and if any, what, part of the same time while you were there; who carried on the farm and managed the business thereof after the said Peter's death, while you were there; whether or not did the said Anna sell any sand or gravel from the homestead and premises while you were there; if yea, to what extent, in what year or years, and to whom, if you know, were such sales made; whether or not the said Anna planted or set out any fruit or ornamental trees, on the premises, while you were there; if so, in what year or years, and to what number or extent; whether or not the said Anna made any repairs or additions upon or to, or any alterations in any building or buildings upon, the premises, or built any building thereon, while you were there; if so, what alterations, additions, or repairs did she make, and to what extent, or what building did she build, and in what year or years, and who was employed to do the work thereon, or in making any such repairs, alterations, or additions; whether or not the said Anna let the said premises, or any, and what, part thereof, to any, and what, person or persons, and when, and on what terms, or for what rent or consideration; and if yea, whether or not any such, and what, letting thereof was with the knowledge of the said Charles; and whether or not the said Charles in any, and if any, what, instance, and how, objected thereto; whether or not the said Anna ever had any, and if any, what, difficulty or dispute with any, and if any, what, tenant of the premises, or of any part thereof; if yea, whether or not the same was submitted to referees; and if so, who were they; and whether or not the said Charles attended before any

such, and what, referees as a witness for the said Anna, your mother; and if so, when, and on what occasion?

3d. Whether or not do you know, or have you heard, anything said by the said Charles, or in his presence and hearing, and not by him denied, respecting any interest or claim of your mother, the said Anna, in or to the said homestead and premises; if yea, please to state what you know or have so heard respecting the same, and when, and where, and whether more than once; and if so, how often, and on what occasion or occasions; and relate fully and circumstantially everything which you know, or have so heard as aforesaid, touching the matters herein inquired after.

4th. Whether or not do you know, or have you heard, from the said Charles, or in his presence and hearing, and not by him denied, anything respecting any conveyance or title of the said homestead and premises to be made by the said Charles to the said Anna, your mother; if so, what do you know, or have you heard, and when, and where, and on what occasion or occasions; and whether or not, if such conveyance or title was to be made by said Charles, it was, as far as you know or have heard as aforesaid, to be made on any, and if any, what, condition or conditions; and what do you know, or have you heard as aforesaid, relative thereto; whether or not the said Charles ever expressed on any, and if any, on what, occasion, a willingness or unwillingness to make any such conveyance or title to your mother, the said Anna, of the said homestead and premises on any, and if any, what, condition; if yea, when, where, and on what occasion or occasions, and what did he say relative thereto? Please state fully and particularly all which you know, or have heard as aforesaid, relative to the matters herein inquired after.

"5th. Whether or not the said Charles ever, in your presence or "hearing, claimed to be the owner of the entire and absolute interest in "the said homestead and premises, or denied that the said Anna, your "mother, had any interest whatever therein, or said or did anything "tending to shew that he claimed to have the entire and exclusive in-"terest in the premises, or denied any interest of your mother therein? "if yea, please to declare fully and particularly what he said or did; and when, and where, and on what occasion or occasions; and if said Anna was present; and if so, what, and all which was said between him and the said Anna relative thereto.

6th. Whether or not the said Anna, your mother, superintended or directed in carrying on the farm, and making any improvements on the premises; if so, how; and whether or not the said Charles ever, on any occasion while you resided with your mother, interfered in any way with any orders or directions of your mother therein; and if so, how, and when, and on what occasion; whether or not the said Charles ever interfered with any doings of your mother, or denied the right of your mother to make any alterations in the buildings on the premises, or any improvements upon the premises, or to let the same, or to take and sell sand or gravel therefrom; if yea, when, and where, and on what occa-

sion, and what did he say or do relative thereto? State fully and particularly what he did or said; if in any way he interfered or assumed to direct in regard to the matters herein inquired after.

7th. If you say that any person or persons bought sand or gravel from the premises, or hired any part thereof, or were or was employed to work or make any improvements thereon, or alterations therein, please to declare if you know with whom they contracted, and who agreed with them in regard thereto?

8th. Whether or not the said Charles was, during the time you resided with your mother, employed in doing any, and if any, what, business of your mother; and whether or not your mother took directions and orders from the said Charles, or the said Charles took directions and orders from your mother, in regard to *letting* any part of the premises, or selling sand or gravel therefrom, or making improvements thereon, or managing the same, or the business thereof? Please state all which you know relative to the matters herein inquired of, or which you have heard in the presence and hearing of said Charles, and not by him denied; and when, and where, and on what occasion, any thing which you state occurred, and what was said or done on the occasion?

"9th. Whether or not the said Charles has on any occasion acknowledged or admitted that your mother had an interest in the said homestead and premises; if yea, how, in what manner, by what words or acts, and when, and on what occasion, and whether more than once, and how often, has he acknowledged or admitted to that effect? State fully, particularly, and circumstantially, all which has been said or done to this effect? Whether or not has your mother, or any one, in the presence and hearing of the said Charles, and not by him denied, ever asserted that she had any, and if any, what, interest in the said homestead and premises, or was entitled to a conveyance thereof from the said Charles on any, and if any, what terms? If yea, what has been so said, and when, and whether more than once, and on what occasion or occasions? State fully and particularly all, if any thing, which has been so said, with the time, place, and circumstances attending it.

10th. Whether or not do you know Ammi Cutter, or Daniel Cummings, or Richard Perkins; if yea, whether or not do you know, or have you heard from the said Charles, or in his presence and hearing, and not by him denied, for what purpose, and on what terms, if any, or under what agreement, if any, either said Cutter, or Cutter and Cummings, or Cutter and Perkins, held a deed or title of the premises; or on what terms, or under what agreement or understanding, if any, the same were conveyed by said Cutter to said Charles? If so, declare all which you know, or have so heard, relative thereto, fully, particularly, and circumstantially; and whether or not, if you know or have "heard as aforesaid, that the said Charles holds the deed or title thereof "on any similar terms; and if so, what you know, or have so heard, "relative thereto? State fully and particularly.

11th. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this

cause, or either of them, or that may be materiai to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answers.

RAND, WARREN & FISKE,
For plaintiff.

A true copy. Attest: ——— ———, *Clerk.*

Cross interrogatories, on behalf of the defendants, to Anna T. Hughes.

The defendants except and object to the plaintiff's interrogatories, as seeking to prove a contract for the sale of real property, or a trust in relation to the same, by parol evidence. They also except and object to so much of said interrogatories as are marked with a double line in the margin, as leading, and also as asking for matters of opinion.

1st. What is your age?

2d. Where do you reside, and where have you resided each of the last nine years?

3d. Have you not heard Charles Tufts say, in your mother's presence, that he only agreed to allow her to purchase the said premises for five years from the time when he bought them, or something to that effect, and how many times, and when, and where?

4th. Have you not heard said Charles Tufts deny that your mother had any claim on him to purchase said premises? If yea, when, and where, and how often?

5th. Has there not been a controversy of some years, and how long standing, between said Charles and your mother, as to a claim she made of a right to purchase the said premises of him; has he not denied her claim many times in your presence?

6th. Was it not a matter of controversy between said Charles and your mother as to how long her claim to purchase said premises was to continue?

7th. If, in answer to the plaintiff's third or fourth interrogatory, you say that your mother claimed a right to purchase the said premises of said Charles, in any conversation at which he was present, please say whether, in any such conversation, she stated what consideration she was to give for the right she claimed to purchase said premises of said Charles; did she say whether it was optional with her to purchase the said premises, or not, or any thing to that effect?

8th. If, in answer to the third or fourth interrogatory, you state any conversations at which said Charles was present, please say when and where each conversation took place, and who was present at it? Has not said Charles, in some one or more of said conversations, told your mother it was optional with him, after some, and what, lapse of time from the time of his purchasing the premises, whether to let her purchase the said premises of him or not, or any thing to that effect? State all that was said in said conversations, as far as you recollect them.

9th. How long did your mother, in said Charles' presence, say her claim to purchase the said estate was to continue; when and where did

sion, and what did he say or do relative thereto? State fully and particularly what he did or said; if in any way he interfered or assumed to direct in regard to the matters herein inquired after.

7th. If you say that any person or persons bought sand or gravel from the premises, or hired any part thereof, or were or was employed to work or make any improvements thereon, or alterations therein, please to declare if you know with whom they contracted, and who agreed with them in regard thereto?

8th. Whether or not the said Charles was, during the time you resided with your mother, employed in doing any, and if any, what, business of your mother; and whether or not your mother took directions and orders from the said Charles, or the said Charles took directions and orders from your mother, in regard to *letting* any part of the premises, or selling sand or gravel therefrom, or making improvements thereon, or managing the same, or the business thereof? Please state all which you know relative to the matters herein inquired of, or which you have heard in the presence and hearing of said Charles, and not by him denied; and when, and where, and on what occasion, any thing which you state occurred, and what was said or done on the occasion?

"9th. Whether or not the said Charles has on any occasion acknow-"ledged or admitted that your mother had an interest in the said home-"stead and premises; if yea, how, in what manner, by what words or acts, and when, and on what occasion, and whether more than once, and how often, has he acknowledged or admitted to that effect? State fully, particularly, and circumstantially, all which has been said or done to this effect? Whether or not has your mother, or any one, in the presence and hearing of the said Charles, and not by him denied, ever asserted that she had any, and if any, what, interest in the said homestead and premises, or was entitled to a conveyance thereof from the said Charles on any, and if any, what terms? If yea, what has been so said, and when, and whether more than once, and on what occasion or occasions? State fully and particularly all, if any thing, which has been so said, with the time, place, and circumstances attending it.

10th. Whether or not do you know Ammi Cutter, or Daniel Cummings, or Richard Perkins; if yea, whether or not do you know, or have you heard from the said Charles, or in his presence and hearing, and not by him denied, for what purpose, and on what terms, if any, or under what agreement, if any, either said Cutter, or Cutter and Cummings, or Cutter and Perkins, held a deed or title of the premises; or on what terms, or under what agreement or understanding, if any, the same were conveyed by said Cutter to said Charles? If so, declare all which you know, or have so heard, relative thereto, fully, particularly, and circumstantially; and whether or not, if you know or have "heard as aforesaid, that the said Charles holds the deed or title thereof "on any similar terms; and if so, what you know, or have so heard, "relative thereto? State fully and particularly.

11th. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this

cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answers.

RAND, WARREN & FISKE,
For plaintiff.

A true copy. Attest: ——— ———, *Clerk.*

Cross interrogatories, on behalf of the defendants, to Anna T. Hughes.

The defendants except and object to the plaintiff's interrogatories, as seeking to prove a contract for the sale of real property, or a trust in relation to the same, by parol evidence. They also except and object to so much of said interrogatories as are marked with a double line in the margin, as leading, and also as asking for matters of opinion.

1st. What is your age?

2d. Where do you reside, and where have you resided each of the last nine years?

3d. Have you not heard Charles Tufts say, in your mother's presence, that he only agreed to allow her to purchase the said premises for five years from the time when he bought them, or something to that effect, and how many times, and when, and where?

4th. Have you not heard said Charles Tufts deny that your mother had any claim on him to purchase said premises? If yea, when, and where, and how often?

5th. Has there not been a controversy of some years, and how long standing, between said Charles and your mother, as to a claim she made of a right to purchase the said premises of him; has he not denied her claim many times in your presence?

6th. Was it not a matter of controversy between said Charles and your mother as to how long her claim to purchase said premises was to continue?

7th. If, in answer to the plaintiff's third or fourth interrogatory, you say that your mother claimed a right to purchase the said premises of said Charles, in any conversation at which he was present, please say whether, in any such conversation, she stated what consideration she was to give for the right she claimed to purchase said premises of said Charles; did she say whether it was optional with her to purchase the said premises, or not, or any thing to that effect?

8th. If, in answer to the third or fourth interrogatory, you state any conversations at which said Charles was present, please say when and where each conversation took place, and who was present at it? Has not said Charles, in some one or more of said conversations, told your mother it was optional with him, after some, and what, lapse of time from the time of his purchasing the premises, whether to let her purchase the said premises of him or not, or any thing to that effect? State all that was said in said conversations, as far as you recollect them.

9th. How long did your mother, in said Charles' presence, say her claim to purchase the said estate was to continue; when and where did

she so say; what did he say in reply; has he not, in your presence, one or more times, told her her claim to purchase the premises was only to continue five years, or any and what other time, from the time he purchased them?

10th. Did said Anna tell said Charles she had bound herself, or made herself liable in any way, to purchase said premises of said Charles? If yea, how did she say she had bound herself or made herself liable? Where and when did the conversation or conversations take place; and what did he say in reply; and what did he say, if any thing, which led her to speak on the subject?

11th. If you say that, in any such conversation between said Charles and said Anna, she said she had a right to purchase said premises of said Charles, please say what she said at the time or times, if any thing, as to the time of paying for said premises, and as to paying rent for the premises, or interest on the price, and the taxes. When and where did the conversations take place; and what did said Charles say in reply; and what did he say which led her to speak on the subject; have you not heard him tell her she had forfeited all claim by not paying interest or rent regularly?

12th. If, in answer to your second interrogatory, you say that your mother has made any repairs, alterations, and additions on the premises, please state particularly how you know what money she paid for the same, or any part thereof. How much have you seen her pay for the same, and to whom, and when; and what mechanics made each of the alterations and additions you have named? Please state particularly every alteration and addition you say she has made; and how you know she ordered it; and how you know she paid for it; and how much, and to whom?

13th. Have you not some reason, and what, to know that the said Charles Tufts has paid for most, if not all, of the repairs, additions, and alterations, put on said premises since he had the title to them?

14th. If, in answer to the tenth interrogatory, you say that your mother ever said, in the presence of said Charles, or you ever heard from said Charles, that said Cutter and Cummings, or said Cutter and Perkins, had promised to convey the said premises to her, please say when and where the conversations took place; and who was present, and what your mother said, if any thing, as to how long she was to have the privilege of buying said premises; as to whether her privilege was to be lost, by her not paying rent, or interest, or taxes on the premises, punctually; as to who was to pay for the repairs; whether she gave, if any what, consideration for the privilege of purchasing said premises; whether she bound herself, or promised in any, and if in any what, way to purchase said premises; and what did said Charles say in any such conversation, on any of these points? Has he not, at one or more and how many times, told your mother that said Cutter and Perkins were only bound to sell the said premises to her for ten years, and that she was to lose the privilege if she did not pay rent, or interest, or taxes, punctually, or something and what to that effect?

15th. Did not said Charles raise money, by mortgaging the said premises, to pay his own debts? If so, when; and how much? And have not you heard your mother speak of his having so raised money? And how many years ago was it since you first heard of such a mortgage?

16th. What have been the pecuniary circumstances of said Anna, since the death of said Peter Tufts? Have they been straitened or otherwise?

17th. Has said Anna Tufts, since said Peter Tufts' death, to your knowledge, had any, and if any what, property, yielding any, and if any what, income? When did she own such property; how long; does she still own it; what is its value; how do you know she owned it?

18th. Have you received any letter or letters from said Anna Tufts, or any other person or persons, respecting this suit, or her claim against Charles Tufts, or any interest which she claims in the homestead in Cambridgeport, formerly of Peter Tufts, jr., or your testimony in this case? If yea, what letter or letters, and from whom? And please annex the said letter or letters to your answers.

S. E. SEWALL,
For C. Tufts and E. Wheeler.

A true copy—attest: FRANCIS BASSETT, *Clerk.*

Answers of Anna T. Hughes to the interrogatories hereto annexed, on the part of the plaintiff.

The following are the answers of Anna T. Hughes, of the town of Monroe, parish of Ouachita, in the State of Louisiana, to questions put to her, as a witness in the above case, taken on part of the complainant, and cross interrogated by the defendants:

1st. To the first interrogatory she answers and says: She, deponent, is the daughter of Anna Tufts, that is, she is the daughter of Anna Tufts of Cambridgeport, Massachusetts, and she supposes she is the same person alluded to. Deponent says she is the half sister of Charles Tufts. She has known the said Anna and Charles ever since she could first recollect. She says she is the daughter of the late Peter Tufts, late of Cambridge, in the State of Massachusetts, and that her said father is dead.

2d. To the second deponent says: She knows the homestead and premises on which the said Peter, her father, died in Cambridge, Massachusetts. She says her father and mother resided on the said premises, previous to the time at which she could first recollect. She has heard the family say that she, deponent, was some six months of age when they first went on the place. They continued to reside there until the death of her father, at which time deponent thinks she was about six years of age.

Deponent says, that she left the State of Massachusetts, and came to Louisiana. She left Cambridge on the 2d day of November, 1837. She, the month previous to said time, was eighteen years of age. She says, that from her earliest recollection, up to the time she so left Massachusetts, her mother had resided at the aforesaid homestead and prem-

ises in Cambridge, and has heard that she continued to reside there for some time afterwards; but she does not know of her own knowledge what occurred after she left there. Her mother was residing on the premises when she left. Deponent lived with her mother, she supposes, from the time she was born until she left Massachusetts, in 1837.

Deponent says, that the said Charles Tufts, her half-brother, lived with her mother from the time she can first recollect, until she left Massachusetts.

Deponent says, that the farm, from the time of the death of Peter Tufts, deponent's father, was carried on by her mother, the complainant, and she managed the business thereof. Deponent says, that her mother frequently sold sand and gravel from the premises; she does not recollect particularly to whom. She recollects that the teams of George Parks, the town teams, those of a Mr. Bills, those of a Mr. Charles Haynes, and she thinks others, were engaged frequently in hauling sand and gravel from the premises. She knows that the bills for sand and gravel were made out in the name and for the benefit of her mother. She does not recollect particularly the precise year, but thinks it occurred almost every year, from the time she was old enough to recollect, until she left there; to what extent she does not now recollect; but says there was a great deal of sand and gravel, at one time or another, sold from the premises by her mother, within the time she has stated.

Deponent says, that when her father died there were a great many fruit trees growing on the place. There was a nursery of young fruit trees; as the old trees died off, young trees were taken from the nursery and placed where they had grown. She does not recollect precisely at what times these acts were performed, or to what extent.

Deponent says, there were some shade trees planted by her mother's orders on the side of the road leading to the house. She does not recollect at this time what number. She thinks these trees were set out in the year 1833 or 1834. She says she recollects that her mother, and she thinks her brothers, Adison, Elbridge, and she thinks Mr. Edward Spear, went for the trees last spoken of, and brought them home and planted them.

Deponent says, when her father died there was but the kitchen, which was one story, built out from the house. She says, after this, her mother had another story added to the kitchen, so as to make two good sleeping rooms; they are well finished off. She says, a Mr. John Ames, and probably a partner of his, whose name she does not recollect, put up the addition to the kitchen, being employed by her mother. She says her mother had a corn-barn built on the premises; does not recollect who was the workman who built it; thinks that she saw Charles Tufts, her brother, doing some work on it, though he was not a mechanic. She cannot recollect what year or years these improvements were made, but says it was a long time ago; she was then a school girl. Deponent says, her mother, about four years or more before deponent left Massachusetts, had the house, inside and out, painted, and

she thinks about one year before she left there her mother had a coat of paint put on the outside of the house, but as to the precise time she does not pretend to know. She says she does not know by whom this was done, but thinks the same workmen painted each time.

Deponent says, in the year 1837, the year she left home, she having left in November, her mother let the place to a Mr. Stone, on the halves. He was to keep it one year; he was to have two rooms in the house, the kitchen, a back room, and chamber. Her mother was to retain the balance of the house, and the front garden. He was to raise the produce and sell it, and divide the proceeds equally with her mother. She says this letting was within the knowledge of her brother Charles. She says she never heard Charles object to the said letting. Deponent says, her mother disagreed with her tenant, Mr. Stone. She said she did not think that Stone was complying with his part of the agreement. She says she frequently heard her mother speak to Charles, and ask him to see if Stone was doing his duty. Charles never seemed willing to have any thing to do with the matter, or to interfere in any way with the matter. Deponent says that her mother and Stone had some kind of controversy about their contract of lease or letting, and she thinks they left it to two or more men to see if he had done his duty. She thinks she once knew who they were, but she could not venture to swear who they were at this length of time. She does not positively recollect whether or not Charles was or was not a witness examined in relation to the controversy between her mother and Stone. She says she frequently heard her mother and Charles talk about the letting to Stone.

3d. To the third deponent answering says: That once, in the west room in the house, (the homestead,) she heard a conversation between her mother and brother Charles. He was standing at the secretary, at his books. They appeared to be talking over their pecuniary affairs, in which it was stated that Charles had agreed to allow the mother one hundred dollars per year for her attention to the magazine, of which Charles had charge, and was frequently absent, so that it became necessary that some one should attend it, and also in which the board of the said Charles was spoken of; that Charles was to allow her three dollars per week for his board and washing. He was also giving her credit for some money he had collected for sand or gravel. She says her mother appeared anxious to know how they stood. She says her mother appeared to distrust him, and said to him, "Charles Tufts, are you going to act the rascal with me?" He replied that his books would show that he gave her credit for all the money he collected for her. He said that if she would pay him six thousand dollars, that he would give up the title to the place. Her mother said to him, that the debt could not have got that large since it was transferred to him by Mr. Cutter, if he had given her credit for all she was entitled to. There might have been other things said between them at the same time, but she does not recollect. She says the conversation which she heard, and has detailed, made considerable impression on her, as she had thought

her brother Charles a very honest man. This conversation took place within one or two years previous to her leaving Massachusetts. She cannot state more particularly the time.

Deponent says, she has frequently heard her mother say, in presence of Charles, that she was to have the place and premises before spoken of when she paid the money which she owed Charles, and she never heard Charles contradict it; she says, that so far as she recollects, and she has, she thinks, a good recollection of those matters, nothing else was ever talked of in the family, when speaking on the subject, including Charles, than that Mr. Cutter transferred the debt, or rather the land which he had bought for her mother, to Charles, and that her mother was to pay the money and get the title to the land. She says she cannot recollect the time or times when those conversations took place; they always took place at home, where they lived. She says that one of the principal objects of deponent's leaving for Louisiana was to get a situation in which she could assist her mother, by sending her what money she could make, to enable her mother to pay the debt to Charles. She says that Charles knew the object of her coming, and never objected to it. When she left home Charles gave her twenty-five dollars. She says she got a situation as a private teacher, and sent her mother some money.

4th. To the fourth deponent says: That she never heard Charles express an unwillingness to convey to her mother the premises, on her mother's paying him the amount which she was first bound to pay Cutter, and by him transferred to Charles, with six per cent. interest. For further answer to this interrogatory, she refers to her answer to the third, which she conceives fully answers it.

5th. To the fifth deponent says, as she has already said, that Charles never, in her hearing, pretended to have any other interest in the premises than that her mother was to pay to him the amount which Mr. Cutter had given for the land, with six per cent. interest per annum. He lived with her mother, and it was understood between them that he was to pay for his board, as before spoken of. Her mother sometimes consulted him in relation to carrying on her business; he sometimes declined to advise her, and if he did advise her, she sometimes did not follow it, if she thought it not good advice. She says her mother had the whole charge of the family and premises, and Charles was there as a boarder, and was to the family kind, and acted the part of an elder brother.

6th. To the sixth deponent says: That she never heard Charles interfere with her mother's management of the premises, or object to her making any improvement on the premises, or to her mother's selling gravel or sand on the premises, or making alterations, or to her doing any thing in relation to the premises, or the management of them, which she saw fit to undertake.

7th. To the seventh deponent says: She considers this interrogatory fully answered in her answers to previous ones, and refers to those answers as an answer to this.

8th. To the eighth deponent says: She repeats, in answer to this interrogatory, that her mother had as full charge of the premises as she could have had if the title had been in her, and she conducted it in all respects as her own, and took no directions from Charles or any other person, unless she thought fit to do so.

9th. To the ninth deponent says: She has answered this interrogatory in her answers to the several interrogatories previously answered, and refers to them as an answer to this interrogatory.

10th. To the tenth deponent says: She knows Ammi Cutter. She only knows Cummings and Richard Perkins by reputation, as having been connected in business with Mr. Cutter. Ammi Cutter was a distant relative of deponent's mother, and a friend to the family. Deponent says she was once present at the house, and heard her mother tell Charles, that had not Mr. Cutter failed, he, Charles, never would have gotten the business in his hands; that Mr. Cutter had placed it in his hands to keep her mother from being pushed. She does not think Charles made any reply; she thinks this conversation took place some time previous to the one which she has stated as having taken place a year or two previous to the time she left home for the South.

Deponent says she heard on one occasion, at Edward Cutter's, a conversation between her mother and Edward Cutter, in the presence and hearing of Charles Tufts, the defendant, in which it was stated that Ammi Cutter had bought the premises for her mother, and that her mother had agreed to pay him the money, with six per cent. interest per annum, and he had agreed to take it; that Mr. Cutter was in failing circumstances, and did not wish the debt to go into the hands of creditors, and transferred it to Charles Tufts, so that her mother would have such time as she desired to pay the money in, and then take the title to the land; she says she cannot recollect the time.

Respondent says she may be mistaken in whose name the land was deeded; she says Ammi Cutter was the principal actor in the matter, though the deed might have been made to the firm in which Ammi Cutter was a partner; she says that Charles Tufts, at that conversation, so far as she recollects, contradicted nothing which had been said about the terms on which Cutter had purchased, or he had purchased from Cutter.

11th. To the eleventh respondent says: She does not know that she can state any thing further than what she has already stated.

The following are answers to cross interrogatories propounded to the deponent by the defendants.

1st. To the first deponent says: Her age is twenty-six years last March, 1845.

2d. To the 2d deponent says: She was born in Charlestown, State of Massachusetts, as she has been informed; at about six months old she was taken, as she is informed, to Cambridgeport, Massachusetts, where she resided until the 2d day of November, 1837; she started to Louisiana; she came directly to New Orleans, was there some six

months; then she came to the parish of Ouachita, near Monroe, in Louisiana, where she has resided ever since.

3d. To the third deponent says: She never did.

4th. To the fourth deponent says: She never did.

5th. To the fifth deponent says: Up to the time she left Massachusetts, she thought Charles Tufts was willing that her mother should pay the money, with interest at six per cent. per annum, which Mr. Cutter had given for the land, after deducting what she had paid Charles; she thinks he was up to that time willing, and knows it was the opinion at that time of her mother and the whole family; she does not think at that time there was any controversy about her mother's right to take the land; there might have been some misunderstanding as to the amount due by her to Charles, but even of that fact she only speaks from having heard a conversation between her mother and Charles, in which he said he claimed six thousand dollars, and her mother said she did not think the debt amounted to so much—the same which she has spoken of in her answers in chief.

6th. To the sixth deponent says: If so, she did not know it.

7th. To the seventh deponent says: In answer to the third and fourth interrogatory, she has stated the time and place of the conversations which she has detailed as near as she can recollect, and refers to those answers as an answer to so much of this cross interrogatory. Deponent says, she thinks her mother considered that she was bound to pay to Charles the debt transferred by Cutter to him, and take the land, and the consideration was as she has already stated. That Cutter bought the premises for her mother, and transferred them to Charles, so that she should enjoy the right, which he, Cutter, from insolvency, was not able to afford her at the time he transferred the land to Charles. This conclusion has been gathered from the different conversations which she has detailed.

8th. To the eighth deponent says: She has stated the times and places of the different conversations detailed by her in her answers to the third and fourth interrogatories, as well as she can. She does not recollect what persons were present at the different conversations named by her, except at one time, Edward Cutter, as before stated. She thinks the time the conversation took place in the west room at home, as she has before said, there were no persons present except Charles, her mother, and herself. She says, she does not recollect to have ever heard Charles say, that it was optional with him to convey or not the premises to her mother, or that there was a time fixed, at what time she was to pay him the money; indeed, respondent never had an idea when she left there, that Charles would contend against her mother for the land, and hence she thinks that he never said in her presence that it was optional with him to convey or not, or that there was a time given to do so.

9th. To the ninth respondent says: That she never heard her mother say there was a time fixed for paying the debt, but that she intended to pay it as soon as she could. She expected funds from New York, her

part of a debt due to Peter Tufts' estate, her deceased husband. Respondent never heard Charles Tufts say that there was a time fixed at which the money was to be paid.

10th. To the tenth respondent says: She has detailed in her answers heretofore given all the conversations between Charles Tufts and her mother, or that which was had in presence and hearing of each other, as well as the time and place, as near as she can, and she refers to those answers given as an answer to this.

11th. To the eleventh deponent says: From her mother's conversations, she thinks she considered herself liable to pay for the premises and take them. She infers this from the conversations she has detailed already.

Respondent was to pay no rent for the place, but to pay interest on the money she first owed Cutter, and then Charles. She thinks the land, and all the property on the premises, was assessed in her mother's name, and she paid the taxes. She says, she never heard Charles tell her mother that she had forfeited all claim to the premises by not paying interest or rent punctually.

12th. To the twelfth respondent says: She does not know the amount paid by her mother for the repairs, but supposes she paid the value of the work. She does not recollect to have seen the money counted down to the workmen who did it, but she thinks it highly reasonable to a person who can reason, to suppose the money was paid. She knows the repairs were ordered by her mother, and when she left that country she knew of no mechanic or other person who was in the habit of working for nothing, and her mother was considered responsible for her debts. She says, as to the repairs, buildings, alterations, &c., made, and as to the persons who made them, she has stated fully in her answer to the second interrogatory, and refers to that answer as an answer to so much of this cross interrogatory. She knows her mother ordered the repairs, alterations, buildings, &c., spoken of, from the fact that she was there at the time, and knew it then, and still recollects it; does not know how much she paid, but supposes she paid their value, and refers to her answer to the second interrogatory for her answer to whom paid or employed, so far as she recollects.

13th. To the thirteenth respondent says: No; but, on the contrary, that her mother paid for them.

14th. To the fourteenth respondent says: That she has already stated all the conversations which took place by Charles Tufts and her mother, or in presence of each other, and can, on the most mature reflection, recollect nothing more.

15th. To the fifteenth respondent says: She never knew or heard that Charles had mortgaged the place or any other property, for his debts.

16th. To the sixteenth she says: The circumstances of her mother have been considerably straitened since her father's death. She has had to support and educate a family of children, and has had no means, except the revenue derived from the place on which she lived, and her

own exertions. She was constantly expecting to realize money which was due to the estate of her husband's brother in New York, but had got nothing from there when deponent left home.

17th. To the seventeenth respondent says: She has been informed that her father died possessed of considerable property, but the estate became insolvent, from the fact that the estate was bound for security debt. Respondent says again, that she knew of no revenue possessed by her mother, except that which arose from the homestead, and what she gained by her industry.

18th. To the eighteenth respondent says: She has received but one letter on the subject from any person; this letter is from her mother, and though she conceives that no person has any legal right to make her give up the letter, and further, she thinks it an unreasonable request, but she complies with it, and annexes it hereto, and marks it A. And further this deponent sayeth not.

ANN T. HUGHES.

Sworn to and subscribed before me, this 10th of July, 1845.

E. K. WELLSON,
Judge of the district of Louisiana.

STATE OF LOUISIANA, *Parish of Ouachita:*

In pursuance of the annexed commission, which issued from the circuit court of the United States, for the first circuit and district of Massachusetts, in the case wherein Anna Tufts is complainant, and Charles Tufts and Emerson Wheeler are defendants, and in the absence of a commissioner of the State of Massachusetts, I, Ephraim K. Wellson, judge of the seventh judicial district of the State of Louisiana, legally empowered to administer oaths, having fixed on this 10th day of July, 1845, for that purpose, caused Anna T. Hughes, of the aforesaid parish of Ouachita, to come before me, in the town of Monroe, and whilst she was so present, I did her carefully examine on oath, touching the premises, separate and apart from all others, by putting the several interrogatories and cross interrogatories to the aforesaid Anna T. Hughes, in their order; and her answers, which were clearly and distinctly made, I have reduced to writing, and she has signed the same; all of which acts were done and completed on the aforesaid 10th day of July, 1845.

Done and signed in chambers, this 10th day of July, 1845. Witness my hand this 10th day of July aforesaid, having no seal of office in my keeping.

E. K. WELLSON,
Judge seventh district, Louisiana.

CAMBRIDGEPORT, May 29*th*, 1845.

MY DEAR DAUGHTER ANN: I now write a few lines to you in haste, to inform you of my business a little. I have not time to say all I ought to you concerning my case. I ought to have wrote to you two days ago, but trusted to Deborah, and we are so broken up as to time,

that it has been neglected until this moment. I started for Waltham this morn at four o'clock, to Fisk, and have got back at nine, and got to be at Boston at ten. What I have to say to you is, that I want you to recollect all the conversation that you ever had with Charles concerning, if any you ever had, about my having the *place*, or *farm*, or *property*, whenever I paid for it. Did you ever have any conversation to that *effect?* If *ever*, at any time before you went away, be explicit and write. You will have a commission sent to you by my lawyer, in about ten days, to have you go before a magistrate and take your deposition as to what you know concerning the whole affair; you must be particular and write all you *know;* I think you must know about it, you was so intimate with Charles, and used to talk with him so much; it will be of great importance to me to get all, and every word and sentence that can be collected, that was said concerning the place, that it should be mine when I paid principal and interest for it. You must not delay one day, nor one hour, if you can possibly help, but go directly to an officer. You will have directions, and *give positive all* you can. I am having a great time; if it was so that you could have been here, it would [have] been a great benefit. The stage is awaiting. I did not know that I had got to write until now. I wish you was here; I want you to be so much. Give my love to Patrick, and kiss the babe, and take a share for yourself and all friends. All well.

Write punctual. Be *particular, and explicit, and thoughtful.*

Your anxious and loving mother,

A. P. TUFTS.

Come all as soon as you can. If I get flung at this court, I shall [carry it] to court at Washington, and I cannot get any more evidence in.

Deposition of Gorham Tufts.

In the circuit court of the United States, for the first circuit and district of Massachusetts.—In chancery.

Between ANNA TUFTS, plaintiff,
and
CHARLES TUFTS and EMERSON WHEELER, def'ts.

Interrogatories to be administered unto Gorham Tufts, of New Orleans, in the State of Louisiana, scrivener, a witness to be produced and examined on the part of the plaintiff.

1st. Whether or not do you know the parties, plaintiff and defendants, in the above entitled cause, or either, and which of them? If yea, how long have you known them, or either, and which of them; are you in any, and if so, what, way related to the said Anna Tufts and Charles Tufts, and to Peter Tufts, late of Cambridge, in the State of Massachusetts, deceased?

2d. Whether or not have you known the homestead and premises in Cambridge, in the State of Massachusetts, where Peter Tufts, late of said Cambridge, deceased, last dwelt; whether or not the said Anna has occupied the same premises for any, and if so, what time since the

said Peter's death? If yea, whether or not have you lived with her or in her family any, and if any, what, part of the time heretofore since the said Peter's death; and if yea, whether or not the said Charles lived there at the same, or any, and if any, what part of the same time while you lived there; who carried on and managed the business of the farm there after said Peter's death, while you lived there; whether or not did the said Anna sell any sand or gravel from the said homestead and premises while you were there? If yea, to what extent, in what year or years, and to whom, if you know, were such sales made; whether or not the said Anna planted or set out any fruit or ornamental trees on the premises while you were there; if so, in what years or year, and to what number or extent; whether or not the said Anna made any repairs or additions upon or to, or any alterations in, any building or buildings upon the premises, or built any building thereon, while you were there; if so, what alterations, additions, or repairs did she make; and to what extent, or what building did she build; and in what year or years, and who was employed to do the work therein, or in making any such repairs, alterations, or additions; whether or not the said Anna let the said premises, or any and what part thereof, to any and what person or persons, and when, and on what terms, or for what rent or consideration; and if yea, whether or not any such, and what, letting thereof was with the knowledge of the said Charles; and whether or not the said Charles ever in any, and if any, what instance, and how, objected thereto; whether or not the said Anna ever had any, and if any, what difficulty or dispute with any, and if any, what tenant of the premises, or any part thereof; if yea, whether or not the same was submitted to referees, and if so, who were they; and whether or not the said Charles attended before any such referees as a witness for the said Anna; and if so, when, and on what occasion?

3d. Whether or not do you know, or have you heard any thing said by the said Charles, or in his presence and hearing, and not by him denied, respecting any interest or claim of your mother, the said Anna, in or to the said homestead and premises? If yea, please to state what you know or have so heard respecting the same, and when, and where, and whether more than once; and if so, how often, and on what occasion or occasions? And relate fully and circumstantially every thing which you know or have so heard as aforesaid, touching the matters herein inquired after.

4th. Whether or not do you know, or have you heard from the said Charles, or in his presence and hearing, and not by him denied, any thing respecting any conveyance or title of the said homestead and premises to be made by the said Charles to the said Anna your mother; if so, what do you know, or have you heard, and when and where, and on what occasion or occasions; and whether or not, if such conveyance or title was to be made by said Charles, it was, as far as you know or have heard as aforesaid, to be made on any, and if any, what condition or conditions; and what do you know, or have you heard as aforesaid, relative thereto; whether or not the said Charles ever expressed

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on any, and if on any, on what occasion, a willingness or unwillingness to make any such conveyance or title to your mother, the said Anna, of the said homestead and premises, on any, and if any, what condition; if so, when, where, on what occasion or occasions, and what did he say relative thereto? Please to state fully and particularly all which you know or have heard as aforesaid relative to the matters herein inquired after.

5th. Whether or not the said Charles ever, in your presence or hearing, claimed to be the owner of the entire and absolute interest in the said homestead and premises, or denied that the said Anna, your mother, had any interest whatever therein, or said or did any thing tending to show that he claimed to have the entire and exclusive interest in the premises, or denied any interest of your mother therein? If yea, please declare fully and particularly what he said or did, and when, and where, and on what occasion or occasions, and if said Anna was present; and if so, what and all which was said between him and said Anna, your mother, relative thereto?

6th. Whether or not the said Anna, your mother, superintended or directed in carrying on the farm, or in making any improvements on the premises; if so, how; and whether or not the said Charles ever, on any occasion while you resided with your mother, interfered in any way with any order or direction of your mother therein; and if so, how and when, and on what occasion; whether or not the said Charles ever interfered with any doings of your mother, or denied the right of your mother to make any alterations in the buildings on the premises, or any improvements upon the premises, or to let the same, or to take and sell sand and gravel therefrom; if yea, when and where, and on what occasion, and what did he say or do relative thereto? State fully and particularly what he did or said, if in any way he interfered or assumed to direct in regard to the matters herein inquired after.

7th. If you say that any persons or person bought sand or gravel from the premises, or hired any part thereof, or were or was employed to work or make any improvements thereon, or alterations therein, please to declare, if you know, who agreed with them in regard thereto.

8th. Whether or not the said Charles was, during the time you resided with your mother, employed in doing any, and if any, what business of your mother? And whether or not your mother took directions and orders from the said Charles, or the said Charles took directions and orders from your mother, in regard to letting any part of the premises, or selling sand or gravel therefrom, or managing the same, or the business thereof? Please state all which you know relative to the matters herein inquired of, or which you have heard in the presence and hearing of said Charles, and not by him denied. And when, and where, and on what occasion anything which you state occurred. And what was said or done on the occasion.

"9th. Whether or not the said Charles has, on any occasion, acknowledged or admitted that your mother had an interest in the said

homestead and premises?" If yea, how and in what manner, and by what words or acts, or when, and on what occasion, and whether more than once, or how often, has he acknowledged or admitted to that effect? State fully, particularly, and circumstantially all which he has said or done to this effect. Whether or not your mother, or any one, in the presence and hearing of the said Charles, and not by him denied, ever has asserted that she had any, and if any, what interest in the said homestead and premises, or was entitled to a conveyance thereof from the said Charles, on any, and if any, what terms? If yea, what has been so said, and when, and whether more than once, and on what occasion or occasions? State fully and particularly all, if anything, which has been so said, with the time, place, and circumstances attending it.

10th. Whether or not do you know Ammi Cutter, Daniel Cummings, or Richard Perkins? If yea, whether or not do you know or have you heard from the said Charles, or in his presence and hearing, and not by him denied, for what purpose or on what terms, if any, or under what agreement, if any, said Cutter, or Cutter and Cummings, or Cutter and Perkins, held a deed or title of the premises, or on what terms, or under what agreement or understanding, if any, the same were conveyed by said Cutter to said Charles? "If so, declare all which you know or have so heard relative thereto, fully, particularly, and circumstantially. And whether or not, if you know or have heard as aforesaid, that the said Charles holds the deed or title thereof on any similar terms? And if so, what you know or have so heard relative thereto." State fully and particularly.

11th. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause; if yea, set forth the same fully and at large in your answer.

RAND, WARREN & FISKE,
For plaintiff.

Cross interrogatories, on behalf of the defendants, to Gorham Tufts.

The defendants except and object to the plaintiff's interrogatories, as seeking to prove a contract for the sale of real property, or a trust in relation to the same, by parol evidence. They also except and object to so much of said interrogatories as are marked with a double line in the margin as leading, and also as asking for matters of opinion.

1st. What is your age?

2d. Where do you reside, and where have you resided each of the last nine years?

3d. Have you not heard Charles Tufts say, in your mother's presence, that he only agreed to allow her to purchase the said premises for five years from the time when he bought them, or something to that effect, and how many times, and when, and where?

4th. Have you not heard said Charles Tufts deny that your mother

had any claim on him to purchase the said premises? If yea, when, and where, and how often?

5th. Has there not been a controversy of some years, and how long standing, between said Charles and your mother, as to a claim she made of a right to purchase the said premises of him? Has he not denied her claim many times in your presence?

6th. Was it not a matter of controversy between said Charles and your mother, as to how long her claim to purchase said premises was to continue?

7th. If, in answer to the plaintiff's third or fourth interrogatory, you say that your mother claimed a right to purchase the said premises of said Charles, in any conversation at which he was present, please say whether in any such conversation she stated what consideration she was to give for the right she claimed to purchase said premises of said Charles. Did she say whether it was optional with her to purchase the said premises or not, or anything to that effect?

8th. If, in answer to the third or fourth interrogatory, you state any conversations at which said Charles was present, please say when and where each conversation took place, and who was present at it? Has not said Charles, in some one or more of said conversations, told your mother it was optional with him, after some and what lapse of time from the time of his purchasing the premises, whether to let her purchase the said premises of him or not, or anything to that effect? State all that was said in said conversations, as far as you recollect them.

9th. How long did your mother, in said Charles' presence, say her claim to purchase the said estate was to continue? When, and where did she so say? What did he say in reply? Has he not, in your presence, one or more times told her, her claim to purchase the premises was only to continue five years, or any, and what other, time from the time he purchased them?

10th. Did said Anna tell said Charles she had bound herself, or made herself liable in any way, to purchase said premises of said Charles? If yea, how did she say she had bound herself, or made herself liable? Where and when did the conversation or conversations take place, and what did he say in reply, and what did he say, if anything, which led her to speak on the subject?

11th. If you say, that in any such conversation between said Charles and said Anna, she said she had a right to purchase said premises of said Charles, please say what she said at the time or times, if anything, as to the time of paying for said premises, and as to paying rent for the premises, or interest on the price, and the taxes. When, and where did the conversations take place? And what did said Charles say in reply? And what did he say which led her to speak on the subject? Have you not heard him tell her, she had forfeited all claim by not paying interest or rent regularly?

12th. If, in answer to the second interrogatory, you say that your mother has made any repairs, alterations, and additions on the premises, please state particularly how you know what money she paid for the

same, or any part thereof; how much have you seen her pay for the same, and to whom, and when; and what mechanics made each of the alterations and additions you have named? Please state particularly every alteration and addition you say she has made, and how you know she ordered it, and how you know she paid for it. And how much, and to whom.

13th. Have you not some reason, and what, to know that the said Charles Tufts has paid for most, if not all, of the repairs, additions, and alterations put on said premises, since he had the title to them?

14th. If, in answer to the tenth interrogatory, you say that your mother ever said, in the presence of said Charles, or you ever heard from said Charles, that said Cutter and Cummings, or said Cutter and Perkins, had promised to convey the said premises to her, please say when and where the conversations took place, and who was present, and what your mother said, if anything, as to how long she was to have the privilege of buying said premises, as to whether her privilege was to be lost by her not paying rent or interest, or taxes on the premises punctually; as to who was to pay for the repairs. Whether she gave any, and if any, what consideration for the privilege of purchasing said premises? Whether she bound herself, or promised in any, and if in any, in what way, to purchase said premises, and what did said Charles say in any such conversation, on any of these points? Has he not at one or more, and how many times, told your mother, that said Cutter and Perkins were only bound to sell the said premises to her for ten years, and that she was to lose the privilege, if she did not pay rent or interest, or taxes punctually, or something and what, to that effect?

15th. Did not said Charles raise money by mortgaging the said premises to pay his own debts? If so, when, and how much? And have not you heard your mother speak of his having so raised money; and how many years ago was it since you first heard of such a mortgage?

16th. What have been the pecuniary circumstances of said Anna, since the death of said Peter Tufts? Have they been straitened, or otherwise?

17th. Has said Anna Tufts, since said Peter Tufts' death, to your knowledge had any, and, if any, what property, yielding any, and, if any, what income? When did she own such property; how long; does she still own it; what is its value; how do you know she owned it?

18th. Have you received any letter or letters from said Anna Tufts, or any other person or persons, respecting this suit, or her claim against Charles Tufts, or any interest which she claims in the homestead in Cambridgeport, formerly of Peter Tufts, jun., or your testimony in this case? If yea, what letter or letters; and from whom; and please annex the said letter or letters to your answers.

S. E. SEWALL,
For C. Tufts and E. Wheeler.

A true copy. Attest: FRANCIS BASSETT, *Clerk.*

STATE OF LOUISIANA, *Parish of Orleans:*

On this ninth day of July, anno domini one thousand eight hundred and forty-five, (by me appointed for that purpose, at the hour of 12 M.,) personally appeared at my office, No. 6, Exchange Place, New Orleans, before me, the undersigned commissioner, duly appointed by the Governor of the State of Massachusetts to take depositions, and to administer oaths and affidavits, &c., in and for the State of Louisiana, Gorham Tufts, of New Orleans, the witness named in the annexed commission, and being by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the annexed interrogatories and cross interrogatories, was by me examined, and made answer as follows.

JOHN MACLEAN HALSEY,
Commissioner.

Answers of Gorham Tufts, to the interrogatories hereto annexed, on the part of the plaintiff.

1st. To the first interrogatory he saith: I am acquainted with Anna Tufts, the plaintiff, and with Charles Tufts, one of the defendants in this cause. I have seen, but am not acquainted with, Emerson Wheeler, the other defendant named. Mrs. Anna Tufts is my mother. Charles Tufts is my half-brother. Peter Tufts, late of Cambridge, deceased, was my father.

2d. To the second interrogatory he saith: I have known the homestead and premises in Cambridge, State of Massachusetts, where Peter Tufts, late of Cambridge, resided. Mrs. Anna Tufts, my mother, lived on the place, as inquired in this interrogatory, up to the time of my departure from Cambridge, which was fifteen years subsequent to my father, Peter Tufts' death. I lived with Mrs. Anna Tufts, at the homestead, up to the age of sixteen years. Mr. Charles Tufts boarded in the family of Mrs. Anna Tufts, my mother, from my earliest recollection up to the time of my departure from Cambridge. Mrs. Anna Tufts, my mother, controlled and conducted the business of the farm at Cambridge, after my said father's death. Mrs. Anna Tufts did sell sand and gravel from the said homestead while I was there. I cannot tell to what extent, but think it was unlimited. The sand and gravel were taken from a part of the estate called "the gravel-pit." I cannot tell precisely the year or years, but think it was in 1835, 1836, 1837, or thereabouts. Some was sold to the town of Cambridge, some to Charles Haynes, of Cambridge, some to a teamster, named Sinclair, or St. Clair, of Cambridge, and to several other persons, in small lots. Mrs. Anna Tufts set out fruit and ornamental trees, upon the said premises, while I was there. In no particular year to my recollection, but at many and frequent times. Trees were set out on five to ten acres of the land. I cannot say how many trees, or how many acres. There were additions, alterations and repairs made to the said homestead; there was a new barn built, called the "corn barn;" an addition made to the kitchen of two chambers in the second story; the shed between the

house and the old barn was raised and finished in one room; the old barn was repaired. These repairs, alterations, and buildings were made by said plaintiff while I was living with her. The kitchen was altered when I was very young, within my recollection; all the other repairs, alterations, and buildings, were also made within my recollection. I cannot recollect the precise year or years. Mr. Wise, of Malden, was employed to make some of the repairs above referred to. I have no distinct recollection of any other name. In the year 1838, or thereabouts, the plaintiff let the farm to a person named Stone, who was of that neighborhood, to attend to the farming of the estate, and to take one half the revenues of the farm as his share; the plaintiff to receive one half of the revenues as her share or consideration for the lease. This lease was only for one year, and expired at the end of the year. Charles Tufts was my mother's clerk, and was present at the letting of the farm, as stated above. I have no recollection or knowledge of any objections made by Charles Tufts, the defendant, to the letting of the farm, as stated above. The plaintiff had a dispute with the man Stone, to whom the farm was leased, as stated above. This dispute was submitted to referees. Edward Cutter, of Charlestown, was one of the referees; the others I do not remember. Charles Tufts was a witness for the plaintiff in the dispute between herself and Stone. I do not recollect the when, or the occasion.

3d. To the third interrogatory he saith: I have heard Charles Tufts, one of the defendants, frequently speak of my mother's claim to the premises or homestead, as inquired in this interrogatory. Charles Tufts never denied the claim of Mrs. Anna Tufts, my mother, the plaintiff. I have frequently heard my mother, (the plaintiff in this cause,) Charles Tufts, one of the defendants, and my uncle Samuel L. Cutter, and many others in the family, speak of this claim of my mother to the homestead and farm. After my father, Peter Tufts' death, the homestead was sold at auction, and Ammi Cutter, of West Cambridge, bought the place, for the benefit of my mother and her children. My mother had obligated herself to reimburse Ammi Cutter the amount of the purchase money and interest; Ammi Cutter to hold a mortgage on the place for said purchase money and interest until paid. Subsequently to this purchase and arrangement with my mother, Ammi Cutter transferred the mortgage on the estate to Charles Tufts, one of the defendants. Said Charles to take the mortgage upon the same terms as those agreed to by Ammi Cutter, and already stated. At the time the farm was leased to Stone, as stated in my answer to the second interrogatory, I recollect particularly that this claim of my mother was talked about in my presence by Charles Tufts, one of the defendants, and Mrs. Anna Tufts, the plaintiff, and said Charles did then acknowledge this claim of my mother, the plaintiff, as I have already stated it in the answer to this interrogatory. This was in 1838, or thereabouts.

4th. To the fourth interrogatory he saith: I have always understood that a title was to be made to my mother by Ammi Cutter, which not having been done, it was understood that Charles Tufts, to whom the

mortgage of Ammi Cutter was transferred, as stated in my answer to the third interrogatory, was to make the title to my mother, the plaintiff. This information I derive from conversations in the family between Samuel L. Cutter, my mother, Charles Tufts, and Ephraim Cutter, my grandfather. I know of no other conditions to the making of the title or conveyance of the property inquired into, except the mortgage for the purchase money and interest transferred to Charles Tufts, one of defendants, by Ammi Cutter. This mortgage was for four thousand dollars or thereabouts, and interest. There was no limit of time for the payment of this mortgage to my knowledge. I never heard Charles Tufts express any unwillingness to make a title to my mother; but from the frequent occasions on which I have heard him converse on the subject, I was convinced that he was always willing to make the title when my mother required it, and had paid the mortgage.

5th. To the fifth interrogatory he saith: Charles Tufts, one of the defendants, never, in my presence or hearing, claimed to be the owner of the entire and absolute interest in the said homestead and premises; on the contrary, I have heard my mother, the plaintiff, assert that she was the entire and absolute owner of the estate in his, Charles Tufts', presence, and said Charles did not deny her right.

6th. To the sixth interrogatory he saith: My mother, the plaintiff, had sole charge and superintendence of the homestead and farm, as stated in my answer to the second interrogatory, to which I refer as my answer to this interrogatory; I never knew or heard that Charles Tufts interfered in any way with my mother's management or doings upon the estate.

7th. To the seventh interrogatory he saith: The contracts for the sale of gravel and sand, and for the improvements and alterations upon the estate, were made usually by my mother, Mrs. Anna Tufts, or by her authorization; and if such contracts and sales were made at any time by Charles Tufts, they were so made by him as the steward or clerk of my mother, and by her authorization.

8th. To the eighth interrogatory he saith: During my residence with my mother, Charles Tufts acted as her clerk or steward; I assisted him in her business during the latter part of my residence at home; my mother always controlled and dictated the terms of any sales or contracts made on and for the estate; in the sale of gravel, if Charles Tufts was desirous to sell, and my mother was unwilling to do so, her wishes governed; on the occasion of the lease named in my answer to the second interrogatory, when the contract of lease, drawn up between my mother, on one part, and Stone, on the other part, was examined at the house, in my presence, the terms of the contract were dictated entirely by my mother; my mother was in the habit of asking Charles Tufts' opinion, from time to time, but nothing more.

9th. To the ninth interrogatory he saith: In answer to this interrogatory, I refer to my answers to the third, fourth, and fifth interrogatories.

10th. To the tenth interrogatory he saith: I know Ammi Cutter and

house and the old barn was raised and finished in one room; the old barn was repaired. These repairs, alterations, and buildings were made by said plaintiff while I was living with her. The kitchen was altered when I was very young, within my recollection; all the other repairs, alterations, and buildings, were also made within my recollection. I cannot recollect the precise year or years. Mr. Wise, of Malden, was employed to make some of the repairs above referred to. I have no distinct recollection of any other name. In the year 1838, or thereabouts, the plaintiff let the farm to a person named Stone, who was of that neighborhood, to attend to the farming of the estate, and to take one half the revenues of the farm as his share; the plaintiff to receive one half of the revenues as her share or consideration for the lease. This lease was only for one year, and expired at the end of the year. Charles Tufts was my mother's clerk, and was present at the letting of the farm, as stated above. I have no recollection or knowledge of any objections made by Charles Tufts, the defendant, to the letting of the farm, as stated above. The plaintiff had a dispute with the man Stone, to whom the farm was leased, as stated above. This dispute was submitted to referees. Edward Cutter, of Charlestown, was one of the referees; the others I do not remember. Charles Tufts was a witness for the plaintiff in the dispute between herself and Stone. I do not recollect the when, or the occasion.

3d. To the third interrogatory he saith: I have heard Charles Tufts, one of the defendants, frequently speak of my mother's claim to the premises or homestead, as inquired in this interrogatory. Charles Tufts never denied the claim of Mrs. Anna Tufts, my mother, the plaintiff. I have frequently heard my mother, (the plaintiff in this cause,) Charles Tufts, one of the defendants, and my uncle Samuel L. Cutter, and many others in the family, speak of this claim of my mother to the homestead and farm. After my father, Peter Tufts' death, the homestead was sold at auction, and Ammi Cutter, of West Cambridge, bought the place, for the benefit of my mother and her children. My mother had obligated herself to reimburse Ammi Cutter the amount of the purchase money and interest; Ammi Cutter to hold a mortgage on the place for said purchase money and interest until paid. Subsequently to this purchase and arrangement with my mother, Ammi Cutter transferred the mortgage on the estate to Charles Tufts, one of the defendants. Said Charles to take the mortgage upon the same terms as those agreed to by Ammi Cutter, and already stated. At the time the farm was leased to Stone, as stated in my answer to the second interrogatory, I recollect particularly that this claim of my mother was talked about in my presence by Charles Tufts, one of the defendants, and Mrs. Anna Tufts, the plaintiff, and said Charles did then acknowledge this claim of my mother, the plaintiff, as I have already stated it in the answer to this interrogatory. This was in 1838, or thereabouts.

4th. To the fourth interrogatory he saith: I have always understood that a title was to be made to my mother by Ammi Cutter, which not having been done, it was understood that Charles Tufts, to whom the

mortgage of Ammi Cutter was transferred, as stated in my answer to the third interrogatory, was to make the title to my mother, the plaintiff. This information I derive from conversations in the family between Samuel L. Cutter, my mother, Charles Tufts, and Ephraim Cutter, my grandfather. I know of no other conditions to the making of the title or conveyance of the property inquired into, except the mortgage for the purchase money and interest transferred to Charles Tufts, one of defendants, by Ammi Cutter. This mortgage was for four thousand dollars or thereabouts, and interest. There was no limit of time for the payment of this mortgage to my knowledge. I never heard Charles Tufts express any unwillingness to make a title to my mother; but from the frequent occasions on which I have heard him converse on the subject, I was convinced that he was always willing to make the title when my mother required it, and had paid the mortgage.

5th. To the fifth interrogatory he saith: Charles Tufts, one of the defendants, never, in my presence or hearing, claimed to be the owner of the entire and absolute interest in the said homestead and premises; on the contrary, I have heard my mother, the plaintiff, assert that she was the entire and absolute owner of the estate in his, Charles Tufts', presence, and said Charles did not deny her right.

6th. To the sixth interrogatory he saith: My mother, the plaintiff, had sole charge and superintendence of the homestead and farm, as stated in my answer to the second interrogatory, to which I refer as my answer to this interrogatory; I never knew or heard that Charles Tufts interfered in any way with my mother's management or doings upon the estate.

7th. To the seventh interrogatory he saith: The contracts for the sale of gravel and sand, and for the improvements and alterations upon the estate, were made usually by my mother, Mrs. Anna Tufts, or by her authorization; and if such contracts and sales were made at any time by Charles Tufts, they were so made by him as the steward or clerk of my mother, and by her authorization.

8th. To the eighth interrogatory he saith: During my residence with my mother, Charles Tufts acted as her clerk or steward; I assisted him in her business during the latter part of my residence at home; my mother always controlled and dictated the terms of any sales or contracts made on and for the estate; in the sale of gravel, if Charles Tufts was desirous to sell, and my mother was unwilling to do so, her wishes governed; on the occasion of the lease named in my answer to the second interrogatory, when the contract of lease, drawn up between my mother, on one part, and Stone, on the other part, was examined at the house, in my presence, the terms of the contract were dictated entirely by my mother; my mother was in the habit of asking Charles Tufts' opinion, from time to time, but nothing more.

9th. To the ninth interrogatory he saith: In answer to this interrogatory, I refer to my answers to the third, fourth, and fifth interrogatories.

10th. To the tenth interrogatory he saith: I know Ammi Cutter and

Richard Perkins; I do not remember Daniel Cummings, except by name; I have already answered the matters inquired into in this interrogatory in my answer to the third interrogatory.

11th. To the eleventh interrogatory he saith: I have always understood and believed, from the conversations of said Charles, my mother, Mr. Samuel L. Cutter, and others of the family, that my mother was to pay the amount of the mortgage and interest out of the proceeds of the crops of the farm, and out of a debt which had been put in suit against my uncle, Thomas Tufts, which suit is still unsettled, and pending in the State of New York; and, if she was unable to make payment herself, the debt mortgage was to be paid by her children when they became of age; I do not remember any other matter or thing as inquired in this interrogatory.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he saith: I am twenty-one years, five months, and twenty days.

2d. To the second cross interrogatory he saith: In January, 1840, I left my mother's for New Orleans; I resided in New Orleans until January, 1842, and since then I have been engaged on steamboats on the Mississippi and Ohio, and other western rivers; in May, 1844, I declared my residence in New Albany, State of Indiana; I am captain of a steamboat, plying between New Orleans and Cincinnati, at the present time; previous to January, 1840, I resided at my mother's, at Cambridge, Massachusetts.

3d. To the third cross interrogatory he saith: I never heard Charles Tufts say, in mother's presence, that he only agreed to allow her to purchase said premises for five years from the time he bought them, or any words to that effect.

4th. To the fourth cross interrogatory he saith: I have already answered this interrogatory in my answer to the fifth interrogatory.

5th. To the fifth cross interrogatory he saith: I know of no such controversy as that inquired into in this interrogatory; he never denied my mother's claim.

6th. To the sixth cross interrogatory he saith: I never knew that it was a matter of controversy, as to how long my mother's claim was to continue, as inquired in this interrogatory; but I have heard Charles Tufts express a wish that it was settled.

7th. To the seventh cross interrogatory he saith: I have answered this fully in my answers to the third and fourth direct interrogatories.

8th. To the eighth cross interrogatory he saith: I have fully answered this in my answers to the third and fourth direct interrogatories. Charles Tufts never, to my knowledge, told my mother it was optional with him to let her purchase the premises or not.

9th. To the ninth cross interrogatory he saith: I never heard my mother specify any time, in Charles Tufts' presence, for the purchase of the estate, but it was the understanding in the family, as before stated by me in my answer to the eleventh direct interrogatory, that the time

for the purchase of the estate was not limited. I have answered the other part of this interrogatory in my answer to the third cross interrogatory.

10th. To the tenth cross interrogatory he saith: There were very frequent conversations on this subject, and my mother never denied that she and her children were bound to take up the mortgage held by said Charles Tufts. I refer to my answers to the third and fourth direct interrogatories.

11th. To the eleventh cross interrogatory he saith: My mother paid the taxes on the estate; she paid no rent; she was to pay interest on the mortgage; I never heard him say that she had forfeited her claim by not paying interest or rent regularly. I refer to my answers to the third and fourth direct interrogatories.

12th. To the twelfth cross interrogatory he saith: I have seen my mother pay money to the mechanics for the improvements on the place, described in my answer to the second direct interrogatory; I cannot remember how much, or on what particular occasions, or to whom; Charles Tufts, as the clerk of my mother, paid many of the bills for the alterations and improvements on the estate out of funds of my mother in his hands. I refer to my answer to the second direct interrogatory.

13th. To the thirteenth cross interrogatory he saith: I have no reason to know that said Charles Tufts ever paid for any of the repairs, alterations, and buildings put on said premises, since he had the title to them. I refer to my answer to the twelfth cross interrogatory.

14th. To the fourteenth cross interrogatory he saith: I never heard Ammi Cutter, or Daniel Cummings, or Richard Perkins, conversing on the matters inquired into herein; I have frequently been present at conversations between my mother and Charles Tufts, and never heard anything as inquired in this interrogatory. I refer to my answers to the third, fourth, and eleventh direct interrogatories, and to my answer to the ninth cross interrogatory.

15th. To the fifteenth cross interrogatory he saith: I never heard that Charles Tufts had raised money by mortgaging the premises, as inquired in this interrogatory, nor that he had ever mortgaged the estate for any purposes whatsoever.

16th. To the sixteenth cross interrogatory he saith: I have never known or heard that my mother was straitened in her circumstances since the death of my father; the revenues of the estate were sufficient for the maintenance of herself and family.

17th. To the seventeenth cross interrogatory he saith: I do not know of any other estate or estates, except the homestead at Cambridge, from which my mother has derived an income since my father's death, and previous to my departure from Cambridge.

18th. To the eighteenth cross interrogatory he saith: I have never received any letters from my mother, or any other person, giving me any information respecting this suit, or respecting my testimony in this case.

GORHAM TUFTS.

JOHN MACLEAN HALSEY,
Commissioner.

I, John Maclean Halsey, a commissioner, duly appointed by the Governor of the State of Massachusetts to take acknowledgments of deeds, and to administer oaths and affidavits, and to take depositions in and for the State of Louisiana, do certify, that the foregoing eight pages, contain the answers of Gorham Tufts, the witness named in the annexed commission, by me examined, and by him sworn to and subscribed in my presence. And I further certify, that said answers were made by said witness without suggestion or interrogation on my part, and without the assistance or presence of any third person whomsoever, on the day and hour and at the place aforesaid; and that the several interrogatories and cross interrogatories accompanying the annexed commission were by me put to the witness in the order in which they stand, and were by him so answered, and that I did not read to deponent, nor suffer deponent to read, a succeeding interrogatory before the answer to the preceding one had been fully taken down. And I further certify, that said answers were by me reduced to writing, and carefully read to said witness before he subscribed the same, and that they have remained constantly in my possession, and were taken without adjournment. (Eight words being interlined.)

In witness whereof I have hereunto set my hand and affixed my seal, on this ninth day of July, anno domini one thousand eight hundred and forty-five.

JOHN MACLEAN HALSEY, [L. S.]
Commissioner.

Depositions of Daniel Hawks, James Phillips, Charles Wood, Lucius R. Page, and Isaac Melvin.

In the circuit court of the United States, for the first circuit and district of Massachusetts.

Between ANNA TUFTS, plaintiff,
and
CHARLES TUFTS and EMERSON WHEELER, defendants.
} In chancery.

Interrogatories to be administered unto Daniel Hawks, of Cambridge, in said district, a witness to be examined on the part of the plaintiff, in the above cause.

1st. Whether or not do you know the parties, plaintiff and defendants, in the above entitled cause, or either and which of them? If yea, how long have you known them, or either and which of them? Whether or not do you know Joseph A. Holmes, of said Cambridge? And if yea, how long have you known him?

2d. Whether or not you know the homestead and premises, formerly occupied by the late Peter Tufts, of said Cambridge, deceased, and more recently by the plaintiff? If yea, how long have you known these premises? Whether or not you have any knowledge of the value of the said premises, by the foot or by the acre? And if so, what is the value, as nearly as you estimate the same? Whether or not you know

the quantity of land contained in said premises? If yea, what is the quantity thereof, or how many acres are there, as nearly as you are able to state and set forth?

3d. Whether or not have you at any time or times had any conversation with said Emerson Wheeler, respecting any purchase by him of any portion or part of the said premises? If yea, when and at what time or times? And what conversation, and respecting the purchase of what part of said premises, and where was it had; and was any other person, and if so who, present at any such time? Please to set forth all which was said by said Wheeler, in any such conversation or conversations, as nearly as you can recollect. Whether or not did the said Wheeler, in any such conversation say, that any person or persons was or were interested or concerned with him in making any such, and if so, what purchase? And if yea, who did he say was or were so interested? Whether or not did he speak of said Holmes, or any other person in particular, as being so interested? If so, what did he say relative thereto? Whether or not did he speak of the value of the lands purchased, or of the bargain which had been made? If so, what did he say relative thereto? Whether or not did he say he had made a good, or a bad bargain, or how otherwise?

4th. Do you know, or can you set forth, any other matter or thing, which may be a benefit or advantage to the parties at issue in this cause, or either of them; or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

RAND, WARREN & FISKE,
for Plaintiff.

Interrogatories to be administered to James Phillips and Charles Wood, of Cambridge, in said district, grocer, Lucius R. Page, of said Cambridge, gentleman, and Isaac Melvin, of said Cambridge, carpenter, witnesses to be examined on the part and behalf of the plaintiff in the above cause.

1st. Whether or not do you know the parties, plaintiff and defendants, in the above entitled cause, or either and which of them? If yea, how long have you known them, or either and which of them?

2d. Whether or not you know the homestead and premises, formerly owned by the late Peter Tufts, of said Cambridge, deceased, and more recently occupied by Anna Tufts, the plaintiff, in said Cambridge? If yea, whether or not you know the local situation thereof; and how long you have known the same premises; and whether or not you know the quantity of land contained in the premises? If yea, how much land in the whole is contained in the premises? Whether or not you know the state and condition in which the same now is? If yea, what is the state and condition of the same? Whether or not you know that portion of the premises, claimed by Emerson Wheeler, or by him and others jointly? If yea, how much land is contained therein; and what is the local situation and condition thereof?

3d. Whether or not you have had any dealings in buying and selling lands in said Cambridge? If yea, to what extent, and how long have you been engaged therein; and what experience, if any, have you had in buying and selling lands; and in what places have your dealings been had; and whether or not in the vicinity of, or how distant from, the premises; and whether or not you have otherwise had any, and if any, what means of knowing the value of lands in Cambridgeport?

4th. Whether or not you know, or have had any, and if any, what means of estimating the value of the said homestead and premises? If so, please to state what, in your opinion, and according to your estimation, is the value of the whole of said premises; and what is the value of that part claimed by said Wheeler, or by him and others jointly? Please to state the value of the several parts, if they differ materially in value; and of the whole by the acre, or rod, or foot, as may be deemed necessary to give a full, exact, and true account thereof. And please also to state the average value of the whole premises, and of the said portion claimed by said Wheeler, or him and others jointly.

Interrogatory to Lucius R. Page.

5th. Whether or not have you been one of the assessors of the town of Cambridge for any, and what time? If yea, please state if you know to whom the said premises have been assessed from 1825 to 1839, inclusive; and by whom have the taxes for these years been paid.

6th. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them; or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

RAND, WARREN & FISKE,
for Plaintiff.

Cross interrogatories, on behalf of the defendants, to Daniel Hawks, Charles Wood, James Phillips, and Isaac Melvin.

1st. Has not the value of real estate, in that part of Cambridgeport, where the homestead and other premises, formerly of Peter Tufts, jr., are situated, been constantly increasing for several years past?

2d. Are not the said premises of much greater value now than they were a year ago?

Lastly. Do you own any real estate near the said premises, and what?

S. E. SEWALL,
For Ch's Tufts and E. Wheeler.

Cross interrogatories to Lucius R. Page, on behalf of the defendants.

1st. Has not the value of real estate, in that part of Cambridgeport where the homestead and other premises, formerly of Peter Tufts, jr., are situated, been gradually rising for several years past? Are they not of much greater value now than they were a year ago?

2d. Are you town clerk, and one of the assessors of the town of Cambridge; and how many years have you been so?

3d. At what sums were the said homestead and other premises, formerly of Peter Tufts, jr., valued by the assessors, in the years 1841, 1842, 1843, 1844, and 1845? Please give a copy of the valuations from the records, certified by you as town clerk.

4th. To what persons were the taxes on those premises assessed in the said years 1841, 1842, 1843, 1844, and 1845?

5th. What has been the pecuniary credit of said Anna Tufts, and her reputation as to property, from the year 1828 to the present time?

6th. If, in answer to the plaintiff's fifth interrogatory, you say that any other person than Charles Tufts paid the taxes on said premises, from 1826 to 1839 inclusive, please to say, did you see such payments made, and if you did, by whom, and to whom was each one of them made? If you did not see the payments made, how do you know by whom they were made? Were you the town officer who received the taxes in those years? S. E. SEWALL, *for Defendants.*

Answers of Daniel Hawks to the interrogatories hereto annexed on the part of the plaintiff.

1st. To the first interrogatory he says: I have known Emerson Wheeler about ten years. I have known Mrs. Tufts and Charles Tufts about a year and a half. I have known Joseph A. Holmes about six or seven years.

2d. To the second interrogatory he says: I have known the said premises and homestead about a year and a half. In my judgment, the whole place is worth from thirty to thirty-five thousand dollars, to cut up into building lots. I judge so from its situation, and the price at which land has been selling there. I have always understood that there were about twenty-six acres, and should judge that to be the quantity.

3d. To the third interrogatory he says: Some time in the forepart of last September, as I think, I had a conversation with the said Emerson Wheeler, respecting a purchase by him of a portion of the said premises. It was in Purchase street, in Boston. No one else was present. He said to me that Mrs. Tufts would not have so much land to cultivate the next year as this. I asked him why? He said he had bought the west side of the street. This was all that I recollect was said at that time. About ten days after, I met him by Mr. Joseph A. Holmes' store in the street. I asked him if he had bought that land. He said that he and Mr. Holmes and Mr. Chamberlin had bought it. He said they had agreed to pay seven thousand five hundred dollars for it, as I think, and he thought that he should double his money on the bargain. No one was present at this last conversation.

4th. To the fourth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: The value of real estate

in that part of Cambridgeport has been constantly increasing for several years past.

2d. To the second cross interrogatory he says: I think they are of much greater value than they were a year ago.

3d. To the third cross interrogatory he says: I do not own any real estate near the said premises. DANIEL HAWKS.

Sworn to before me, the fourth day of August, 1845.

GEORGE S. HILLARD, *Commissioner.*

Answers of James Phillips to the interrogatories hereto annexed on the part of the plaintiff.

1st. To the first interrogatory he says: I have known Charles Tufts and Emerson Wheeler two years and upwards. I have known Mrs. Tufts for a short time only.

2d. To the second interrogatory he says: I know the said premises and homestead, and the local situation thereof. I have known them for three or four years. I do not know the quantity of land in these premises. I should think the land was in good condition. I know the portion of the premises claimed by Wheeler and others. It is on the right hand of the road as you go down. I don't know how much there is of it. It is in good condition, though I believe it has not been cultivated this year.

3d. To the third interrogatory he says: I have been engaged in buying and selling lands in Cambridge for the last five or six years, to a considerable extent, and have had a good deal of experience therein. My dealings have been in Cambridgeport. I have bought lands within thirty rods of the said premises. I have known the value of lands in Cambridgeport by my own dealings, and by knowing the prices at which others bought and sold.

4th. To the fourth interrogatory he says: I can estimate the value of the premises by the price at which other lands have been bought and sold. I think that part claimed by Wheeler and others is worth at least eight hundred dollars an acre. The remainder, I think, is worth at least eleven hundred dollars an acre. The marsh land is worth about two hundred dollars an acre. I cannot give the entire value of either part of the premises, as I do not know the number of acres.

5th. To the fifth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: The value of real estate in that part of Cambridgeport has been constantly increasing for several years past.

2d. To the second cross interrogatory he says: The said premises are worth somewhat more than they were a year ago.

3d. To the third cross interrogatory he says: Mr. Wood and I own upwards of four acres of land, the boundary of part of which is about eighty rods from the said premises. It is on Pearl street.

JAMES PHILLIPS.

Sworn to before me, the seventh day of August, 1845.

GEO. S. HILLARD, *Commissioner.*

Answers of Charles Wood to the interrogatories hereto annexed on the part of the plaintiff.

1st. To the first interrogatory he says: I have known all the parties for twelve years and upwards.

2d. To the second interrogatory he says: I know the said homestead and premises, and its local situation. I have known the place for nearly twenty years. I have understood that there were about twenty-four acres of upland, and about six acres of marsh. I could not swear to the amount. I should think the land was in good condition, though part of it has been neglected this year. I know the portion of the premises claimed by Emerson Wheeler, or by him and others jointly. It is on the westerly side of the road. It contains about fifteen acres. The land was in good condition last year, but it has not been cultivated this year.

3d. To the third interrogatory he says: I have had dealings in buying and selling lands in Cambridge, more or less for a dozen years, but not to a great extent. I have had considerable experience in buying and selling lands there. My dealings have been in Cambridgeport, in the vicinity of the said premises. I have known almost every sale of land which has taken place in Cambridgeport for the last five or six years.

4th. To the fourth interrogatory he says: I can estimate the value of the said premises by that of other lands which have been sold in the vicinity. I think the whole place is worth thirty thousand dollars, and that it would be cheap at that. The part claimed by Wheeler, or by him and others, is worth from a thousand to eleven hundred dollars an acre. The rest of it is worth about the same per acre, besides the buildings. The marsh is worth from one hundred and twenty-five to one hundred and fifty dollars per acre.

6th. To the sixth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: The value of land in that vicinity has been constantly increasing for several years past.

2d. To the second cross interrogatory he says: I do not think the premises are of much greater value than they were a year ago.

3d. To the third cross interrogatory he says: I own, with another person, four or five acres of land from fifty to one hundred rods distant from the said premises. I have two or three lots besides in the neighborhood.

CHARLES WOOD.

Sworn to before me, the fifth day of August, 1845.

GEORGE S. HILLARD, *Commissioner.*

Answers of Lucius R. Page to the interrogatories hereto annexed on the part of the plaintiff.

1st. To the first interrogatory he says: I know all the parties. I have known Mrs. Tufts and Charles Tufts more than ten years. I have known Emerson Wheeler about five years.

2d. To the second interrogatory he says: I know the said homestead and premises, and the local situation thereof. I have known them about ten years. I know the quantity of land only from the assessors' books, where they are rated at thirty-one acres. I cannot state particularly as to the condition thereof, as I have seldom observed the place. The portion of the premises claimed by Wheeler and others is known to me as being on the westerly side of the road. I have understood that it contains about twelve acres. I do not know particularly as to its condition.

3d. To the third interrogatory he says: I have only bought one building lot in Cambridgeport, about a mile from the said premises, and eight years ago. I only know the value of real estate in Cambridgeport from being one of the assessors of the town.

4th. To the fourth interrogatory he says: I have no means of estimating the value of the said premises, except from the estimate of the assessors. The paper marked A, hereto annexed, contains the estimated value of the said premises for the last twenty years, and I can state nothing further in regard to the true value of the premises.

5th. To the fifth interrogatory he says: I have been one of the assessors since 1842. The paper hereto annexed shows to whom the premises have been assessed for the last twenty years. I do not know by whom the taxes have been paid.

6th. To the sixth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: The value of real estate in that part of Cambridgeport has been rising in value, certainly for the last five years. I think the premises are of more value than they were a year ago.

2d. To the second cross interrogatory he says: I am town-clerk, and one of the assessors of the town of Cambridge. I have been assessor since 1842, and town clerk since 1843.

3d. To the third cross interrogatory he says: The paper hereto annexed, marked A, contains my answer to this interrogatory.

4th. To the fourth cross interrogatory he says: They were assessed to Charles Tufts, as appears by the paper hereto annexed.

5th. To the fifth cross interrogatory he says: I can only say that I have always supposed that Mrs. Tufts was not possessed of much property.

6th. To the sixth cross interrogatory he says: I do not know who paid the said taxes.

I will add a word in explanation of the paper hereto annexed. Before the present year the premises were always assessed as farming lands, and in this year regard was had to their availability as building lands, the portion on the west side of the street being already laid out into lots. This explains the difference between the valuation of the present and the previous years. LUCIUS R. PAGE.

Sworn to before me, the fifth day of August, 1845.

G. S. HILLARD, *Commissioner*.

Years.	To whom taxed.	House.	Value.	Other buildings.	Value.	Mowing and Tillage.	Value.	Marsh.	Value of Marsh.	Pasture.	Value.	Meadow.	Value.	Total.
1826	Heirs of Peter Tufts - -	1	3600	1	300	25	3000	5	500	-	-	-	-	7400
1827	Heirs of Peter Tufts - -	1	3600	1	300	25	3000	5	500	-	-	-	-	7400
1828	Anna Tufts, ex. of Peter Tufts	1	2000	1	300	16	1600	5½	500	3	300	2	100	4800
1829	Anna Tufts, ex'x - -	1	2000	1	200	16	1000	5½	500	3	300	2	100	4100
1830	Anna Tufts, ex'x - -	1	2000	1	200	16	1000	5½	500	3	300	2	100	4100
1831	Anna Tufts, ex'x - -	1	2000	1	200	16	1000	5½	500	3	300	2	100	4100
1832	Anna Tufts, ex'x - -	1	2000	1	200	16	1000	5½	500	3	300	2	100	4100
1833	Anna Tufts, ex'x - -	1	2000	1	200	16	1000	5½	500	3	300	2	100	4100
1834	Anna Tufts - - -	1	2000	1	200	16	1000	5½	500	3	300	2	100	4100
1835	Anna Tufts - - -	1	2200	1	200	16	1400	5½	500	3	300	2	100	4700
1836	Anna Tufts - - -	1	do	1	3000	22	6600	7	700	-	-	-	-	10300
1837	Anna Tufts - - -	1	do	1	do	22	do	7	—	-	-	-	-	10300
1838	Anna Tufts - - -	1	3000	-	-	22	6600	7	700	-	-	-	-	10300
1839	Anna Tufts - - -	1	3000	-	-	22	6600	7	700	-	-	-	-	10300
1840	Anna Tufts - - -	1	3000	-	-	22	5500	7	700	-	-	-	-	9200
1841	Charles Tufts - -	1	3000	-	-	22	5500	7	700	-	-	-	-	9200
1842	Charles Tufts - -	1	do	2	3000	22	5500	7	700	-	-	-	-	9200
1843	Charles Tufts - -	1	do	2	3200	22	5500	7	700	-	-	-	-	9400
1844	Charles Tufts - -	1	do	2	3100	22	5500	7	700	-	-	-	-	9300
1845	Charles Tufts - -	1	do	2	3500	10	4500	7	1400	-	-	-	-	9400
	Emerson Wheeler and others	-	-		-	11	6600	3	600	-	-	-	-	7200

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I certify that the foregoing is a true abstract from the books of the assessors of Cambridge, now in my custody.

Attest, LUCIUS R. PAGE,
Town Clerk of Cambridge.

CAMBRIDGE, *August* 5, 1845.

Paper marked A, annexed to the deposition of Lucius R. Page.

GEO. S. HILLARD,
Commissioner.

Answers of Isaac Melvin, to the interrogatories hereto annexed, on the part of the plaintiff.

To the first interrogatory he says: I have known Mrs. Tufts and Charles Tufts by sight for some years, but am not personally acquainted with them. I have known Emerson Wheeler four or five years.

2d. To the second interrogatory he says: I know the said homestead and premises, and the local situation thereof. I have known the said premises for twelve years. I do not know the quantity of land except from report. I am not able to tell the state and condition of the land. I know the portion of the said premises claimed by Wheeler and Company. It is on the west side of the road. I do not know the quantity or condition thereof.

3d. To the third interrogatory he says: I have been engaged more or less for ten years in buying and selling lands in Cambridge, and have had a good deal of experience in the business. I have bought and sold lands in Cambridgeport within a mile of the premises, and this year I have bought a lot within half a mile. I have a general knowledge of the value of lands in Cambridgeport, by my own dealings and those of others which I have known.

4th. To the fourth interrogatory he says: I have formed a general estimate of the value of the said property. I think it worth about twelve hundred dollars an acre, on an average. The portion claimed by Wheeler and Company is worth a little less, and the other portion rather more. I cannot state the value of the whole or of either of the parts, because I do not know the number of acres.

6th. To the sixth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: The value of real estate in that part of Cambridgeport has been constantly increasing for several years past.

2d. To the second cross interrogatory he says: I think they are more valuable than they were a year ago, but I can't say how much.

3d. To the third cross interrogatory he says: I own a small lot of land about half a mile from the said premises. It is between five and six thousand square feet. I bought it of Wm. Arkerson this spring.

ISAAC MELVIN.

Sworn to before me, the sixth day of August, 1845.

GEO. S. HILLARD,
Commissioner.

Interrogatories to be proposed to George Peirce, of West Cambridge, yeoman, a witness to be examined on the part and behalf of the plaintiff.

1st. Do you know the parties, plaintiff and defendants, in the above entitled cause, or either and which of them? And if yea, how long have you known them, or either and which of them?

2d. Whether or not are you acquainted with the homestead and premises, formerly owned by Peter Tufts, in Cambridgeport, now deceased, and since occupied by the plaintiff, Anna Tufts? And if yea, how long have you known the same?

3d. Whether or not you ever proposed to the said Anna to hire the said homestead or premises? Whether or not you ever proposed to hire the same premises for any period of time for which she declared to you that she could not let the same; or for any period of time for which she declared to you that any other person was unwilling that she should let the same? Whether or not did you ever ask the said Anna to let the same premises to you, or express a wish to hire the same for any term of time, when she said she could not let it to you for that term; or could let it to you for a shorter term only? Whether or not did the said Anna ever say to you, or give you to understand, and if so, how, that she had not the right to let the same premises for any term she pleased? Whether or not did she ever say anything to you, on any occasion, and if so what, importing or implying that she was not the owner or proprietor thereof, or was not at liberty freely to dispose thereof as she might choose? If any such thing had been said to you by the said Anna, to the effect above inquired after, should you or not have been likely to have remembered it? If you had any conversation with the plaintiff touching the hiring the premises, or touching any of the above matters of inquiry, please state the whole of it, with the time, place, and circumstances.

4th. Whether or not is it, and has it or not, for any and what time, been a matter of notoriety in Cambridge and the vicinity, that the said Anna has been in the possession of the premises, carrying on the same in the same manner as if she was the owner thereof? Whether or not improvements have not been made by her, by planting or setting out trees, and adding to the buildings or making repairs thereon? Has she or not sold sand and gravel from the premises? And if yea, how long has sand and gravel been sold from the said farm? Whether or not it was a matter of any, and what notoriety, that sand and gravel was sold or obtained there?

5th. Whether or not any person, beside the said Anna or her counsel, ever called on you, and if so, when and where, to inquire whether you could testify to any of the matters inquired after in the third interrogatory? And, if any person did call on you for any such purpose, who was it? Describe him or her, and what reply, if any, you gave to him. And whether or not it was either of the defendants, or any one on their behalf.

6th. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause,

or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

RAND, WARREN & FISKE,
For plaintiff.

Cross interrogatories on behalf of the defendants to George Peirce.

The defendants object and except to the second interrogatory of the plaintiff, as attempting to make the conversation and declaration of the plaintiff evidence in her own favor, and also as leading; to the third interrogatory as leading, and also as asking for matters of opinion and hearsay, instead of facts within the witness' own knowledge.

Did you ever buy any sand or gravel from said premises? If yea, when? How much? How often? And of whom? Has not said Charles Tufts frequently sold gravel from said premises, and especially in the years 1842, 1843, and 1844? And received the price?

S. E. SEWALL,
For C. Tufts and E. Wheeler.

A true copy.
Attest: FRANCIS BASSETT, *Clerk.*

Answers of George Peirce to the interrogatories hereto annexed on the part of the plaintiff.

1st. To the first interrogatory he says: I have known Mrs. Tufts from childhood. I have known Charles Tufts for some years. I do not know Emerson Wheeler.

2d. To the second interrogatory he says: I know the said homestead and premises, and have known them from childhood.

3d. To the third interrogatory he says: About 1834 I proposed to hire the said place for a garden, and talked with Mrs. Tufts about it, both at my house and at hers. I never made any offer to her, because I learned that she suffered much from the depredations of pilferers. I cannot remember distinctly the conversation, but I feel pretty confident that she did not tell me that she could not let the same, or that any other person was unwilling that she should let them. Nothing was said about any particular term, or about her ability to let it for one period and not another. She said nothing which implied that she had not a perfect right to let the place, or that she was not the owner thereof. If she had said anything of the kind I think I should have remembered it. I cannot give any more particular account of the said conversation.

4th. To the fourth interrogatory he says: It has been a matter of notoriety in Cambridgeport and the vicinity, since Mr. Tufts' death, that Mrs. Tufts was in possession of the premises and carrying on the farm. I do not know of my own knowledge as to the improvements she has made. I do not know as to her sales of gravel of my own knowledge. Gravel has been sold from the premises for many years, and I presume it has been a matter of general notoriety in the neighborhood.

5th. To the fifth interrogatory he says: Some time in May last a gen-

tleman on horseback came to see me in West Cambridge, and asked me about what conversation I had with Mrs. Tufts, when I talked of hiring the premises. I told him I could not recollect that Mrs. Tufts had said anything about her being unable to let the premises on time. I don't know who the gentleman was, and I can hardly describe him, as it was twilight. He had a lady on horseback with him. I supposed that he came on behalf of Charles Tufts.

6th. To the sixth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: I never bought any sand or gravel from these premises. I do not know as to any sales of gravel by Charles Tufts.

GEORGE PEIRCE.

Sworn to before me, the ninth day of August, 1845.

GEORGE S. HILLARD,
Commissioner.

UNITED STATES OF AMERICA,
District of Massachusetts, city of Boston:

On the several days as hereinbefore stated, the aforesaid deponents came before me, and being by me severally and carefully sworn to tell the truth, the whole truth, and nothing but the truth, they gave the foregoing depositions and subscribed the same, which were reduced to writing by me, and subscribed by each witness in my presence. These depositions were taken by virtue of the commission hereto annexed, and to be used in the cause therein mentioned. And all the directions contained in the said commission were carefully observed by me in the execution thereof.

GEO. S. HILLARD,
Commissioner.

Commissioner's fees. - -	$12 00
Deponent's do. - -	7 00
Travel - - - -	2 00

Extracts from the books of Charles Tufts, by him produced in court in the above cause.

DR. *Mrs. Anna Tufts.* CR.

1829	L. F. 8.	J. F.		1830	L. F. 8.	J. F.	
Nov. 22	To Cash	5	$3 00	Nov. 2	By C. & Co's due bill	10	$46 83
Dec. 10	Sundries		32	1831			
29	Sundries	6	4 22	June 10	Sundries	14	4 54
1830				Oct. 1	Cash	16	75
Feb. 11	Cash		3 00		Cash		8 00
18	Cash	7	2 25	Nov. 30	Cash		12 05
March 25	Cash		18 99	Dec. 31	Sundries	17	6 08
May 14	Cash		4 00	1832			
19	Cash	8	8 45	Jan. 13	Cash	*18	5 49
26	Cash		6 38	March 2	Sundries	19	46 38
June 15	Cash		17 12	April 4	Sundries	20	373 00
July 7	Cash		2 68				
Aug. 7	Cash	9	65				
12	Cash		35 19				
Sept. 18	Cash	10	5 37				
Oct. 4	Cash		5 92				
Nov. 6	Cash	11	20 50				
25	Cash		4 04				
Dec. 4	Cash		4 29				
1831							
Jan. 18	Cash	12	8 57				
Feb. 12	Cash		7 30				
21	Cash		9 92				
April 2	Cash	13	18 95				
23	Cash		7 63				
May 7	Cash		2 02				
June 1	Cash		37 50				
19	Cash	14	1 42				
July 4	Cash		16 00				
14	Cash		3 61				
Aug. 9	Cash	15	2 75				
Oct. 1	Cash	16	8 12				

Nov.	12	Cash			3 62				
Dec.	3	Cash		17	6 56				
	31	Cash			5 29				
1832									
Jan'y	7	Cash		18	2 67				
	18	Cash			121 12				
Feb'y	16	Cash			12 01				
March	2	Cash		19	1 76				
	10	Faggots		20	7 42				
	31	Cash			62 04				
April	19	Cash		21	12 63				
May	7	Cash		22	5 40				
	21	Cash			4 49				
		Amount carried forward to 15			515 17			Carried forward to F. 15	503 12
		L. F. 15.						L. F. 15.	
1832		To amount from folio		8	515 17	1832		By amount from folio	8 503 12
May	30	Cash		22	4 50	June	16	Sundries	23 6 05
June	22	Cash		23	5 69		22	Sundries	2 60
	25	Cash		24	2 32	July	10	Cash	25 2 51
July	6	Cash		25	4 62	Sept.	11	Cash	27 10 50
	24	Cash		26	5 00	Oct'r	8	Sundries	29 91 71
August	2	Cash			1 75		26	Cash	30 2 25
		Cash		25	62 06	Nov.	12	Cash	1 50
	29	Cash		27	5 33		16	Cash	31 5 00
Sept.	1	Cash			1 90		21	Cash	1 10
	12	Cash			19 02		15	Cash	15 60
	19	Cash		28	1 17	Dec'r	31	Sundries	32 44 31
	27	Cash			63 06	1833			
Oct'r	4	Cash		29	68 00	Jan'y	1	Balance carried down	185 42
	19	Cash			1 00				
	30	Cash		30	9 45				
Nov'r	12	Cash			75				
	16	Cash		31	1 00				
	23	Cash			33 09				
Dec'r	12	Cash			1 56				
	22	Cash		32	65 23				
					$871 67				$871 67

1835. 231

DR. *Mrs. Anna Tufts*—Continued. CR.

1833	L. F. 15—[Continued.]	J. F.	
January 1	To balance due		$185 42
11	Cash	32	6 31
22	Cash		62
Feb'y 9	Cash	33	4 50
26	Cash	34	9 00
March 2	Cash		1 82
7	Cash		50
20	Cash		37 34
April 1	Cash	35	60 21
5	Cash		50
10	Cash	36	9 37
18	Cash		2 01
27	Cash		14 67
May 3	Cash		2 70
9	Cash	37	1 39
18	Cash		11 61
20	Cash		16 63
30	Cash	38	7 52
June 15	Cash	39	13 09
July 1	Cash		60 21
	Carried forward to folio 26		445 42
1833	L. F. 26.		
July 1	To amount from folio	15	445 42
23	Cash	40	24 00
August 7	Cash		2 12
16	Cash	41	38
Sept. 14	Cash	43	18 47
Oct'r 1	Cash		60 43
17	Cash		88
Nov'r 20	Cash	45	15 98
25	Cash		3 25
Dec'r 2	Cash		4 65

1830	L. F. 15—[Continued.]	J. F.	
Jan'y 12	By Cash	32	$2 87
Feb'y 4	Sundries	33	2 75
March 9	Cash	34	52 18
April 1	Sundries	35	64 24
May 18	Cash	37	75
June 21	Cash	39	1 63
July 1	Cash		8 69
	Carried forward to folio 26		133 11
1833	L. F. 26.		
July 1	By amount from folio 15		133 11
15	Cash	40	6 38
Aug. 7	Cash		75
31	Cash	42	182 25
Oct'r 1	Cash	43	41 75
30	Cash	44	2 75
Nov'r 1	Cash		1 25
Dec'r 13	Cash	46	2 00
26	Cash		16 65
1834			

	4	Cash	46	13 11	Feb'y 6	Sundries	48	75 08
1834					13	Cash		3 13
Jan'y	1	Cash	47	75 69	Mar. 26	Sundries	49	26 74
Feb'y	6	C. Haynes' bill	48	496 20	April 7	Cash		16 84
March	26	T. Short	49	60 00	25	Cash	50	24 00
April	1	Cash	50	59 16	May 10	Cash		75
May	12	Cash		1 51	Aug. 18	Cash	53	75
	23	Cash	51	18 34	Oct'r 6	Cash	54	22 83
June	6	Cash		5 34	24	Cash	55	15 00
	17	Cash		23 00	Nov. 21	Cash		41 50
July	1	Cash	52	59 16	Dec. 17	Cash	56	35 00
August	7	Cash		24 50	Jan'y 1	Cash		373 00
Sept.	16	Cash	53	12 38		By balance due		633 33
Oct'r	1	Cash		63 66				
	6	Cash	54	32 00				
	23	Cash		27 00				
Nov'r	1	Cash	55	4 50				
	21	Cash		20 94				
Dec'r	6	Cash	56	22 00				
	20	Cash		1 34				
1835								
Jan'y	1	Cash		59 16				
				1,654 84				1,654 84
1835					1835			
Jan'y	1	To balance brought down		633 33	Jan'y 19	By Cash	57	2 50
		Cash	57	20 62	March 3	Cash	58	13 50
	31	Cash		3 53	May 9	Cash	60	7 33
Feb'y	9	Cash		9 36				
		Cash		4 25				
March	3	Cash	58	14 37				
	7	Cash		17 00				
	24	Cash	59	8 50				
April	11	Cash		91 56				
May	11	Cash	60	24 12				
	30	Cash	61	11 16				
		To page 38		837 80		To page 38		23 33

DR. *Mrs. Anna Tufts*—Continued. CR.

		L. F. 38.	J. F.				L. F. 38.	J. F.	
1835		To amount from page	26	$837 80	1835		By amount from page	26	$23 33
June	6	Cash	61	44 50	June	8	Sundries	61	2 56
July	1	Cash	62	59 16	Sept.	6	Sundries	63	2 12
	28	Cash		228 23	Nov.	10	Sundries	65	3 33
August	17	Cash	63	29 40	Dec.	31	Sundries	66	256 00
Sept'r	6	Cash		12 90			Balance carried down		1,242 84
	14	Cash	64	54 75					
Oct'r	1	Cash		62 16					
Nov'r	26	Cash	65	80 75					
Dec'r	11	Cash		14 29					
	31	Cash	66	107 14					
				1,530 18					1,530 18
1836					1836				
Jan'y	1	To balance due		1,242 84	Jan.	18	By Cash	67	3 50
	21	Cash	67	5 28	Mar.	9	Cash	68	14 50
	29	Cash		6 67		14	Cash		1 50
March	3	Cash	68	4 26	May	6	Cash	69	14 00
	14	Cash		18 00		14	Cash	70	1 50
April	1	Cash		9 69	Oct.	1	Cash	73	3 08
		Cash	69	75 96	Nov.	23	Cash	74	56 58
May	24	Cash	70	20 00	Dec.	31	Cash	75	256 00
June	10	Cash		7 00			Balance carried down		1,596 51
July	1	Cash	71	60 16					
	6	Cash		6 00					
	8	Cash		12 62					
August	8	Cash	72	15 65					
October	1	Cash	73	65 16					
Nov'r	23	Cash	74	116 44					
Dec'r	31	Cash	75	281 44					
				1,947 17					1,947 17

1837				1837			
January 1	To balance due	76	1,596 51	Mar. 21	By expense account	79	4 87
20	Cash	77	2 88	April 26	C. Smith	80	3 00
30	Cash		3 90	Aug. 10	Sundries	82	41 50
Feb'y 24	Cash	78	20 00				
27	R. N. Fiske	79	7 00				
April 1	M. & Brooks		104 00				
	Interest account		59 16				
May 12	Powder	81	6 00				
July 1	Interest account		59 16				
August 19	Powder	82	5 25				
Sept'r 12	Powder		3 00				
October 1	Interest account	83	59 16				
12	Powder		11 25				
	Amount carried forward		1,937 27		Carried forward		49 37
	L. F. 39.				L. F. 39.		
1837	To amount from page	38	1,937 27	1837	By amount from page	38	49 37
Oct'r 23	Powder	83	12 00	Nov. 30	Cash	84	6 00
Nov'r 15	Powder	84	21 00	Dec. 31	Expense account	85	256 00
Dec'r 30	Powder		9 00		Sundries	85	1,789 23
31	Sundries		82 16				
	Sundries	85	39 17				
			2,100 60				2,100 60
1838				1838			
Feb'y 10	To Cash	86	5 75	May 10	By Cash	88	19 25
March 1	Cash	87	10 30	Dec. 31	Sundries	94	306 00
April 1	Interest		59 16		Cash		12 00
May 30	Cash	88	3 21		Balance to new account		449 84
June 15	Cash		80 93				
July 1	Sundries	89	72 18				
21	Cash		2 25				
August 1	Cash	90	44 00				
8	Cash		32 75				
14	Cash		17 83				
20	Cash	91	12 00				

DR. *Mrs. Anna Tufts*—Continued. CR.

October 1	Interest		$59 16				
16	Cash		10 75				
Nov'r 14	Cash	92	12 50				
30	Cash		19 00				
Dec'r 15	Cash	93	52 50				
26	Sundries		15 46				
31	Sundries		53 24				
	Sundries		224 12				
			787 09				$787 09
1839	L. F. 39—[Continued.]	J. F.			L. F. 39—[Continued.]	J. F.	
Jan'y 1	To balance brought forward	96	449 84	May 14	By Cash	98	5 33
25	Powder		5 50	23	Cash		3 00
Feb'y 21	Powder		2 50	Sept. 27	Cash	101	3 00
April 1	Sundries	97	73 16	Dec. 31	Sundries	103	306 00
18	Sundries		2 75		Balance to page 78		544 82
May 1	Sundries		2 50				
14	Sundries	98	7 00				
July 1	Sundries	99	59 16				
25	Sundries	100	61 12				
August 3	Sundries		12 50				
Oct'r 1	Sundries	101	75 16				
5	Sundries		8 53				
18	Sundries	102	5 25				
Nov'r 16	Sundries		11 03				
Dec'r 31	Sundries	103	86 15				
			862 15				862 15
	L. F. 78.				L. F. 78.		
1840	To balance from page 39		544 82	1840 Mar. 10	By Cash	*104	25 60
Jan'y 20	Cash	104	58 84	April 28	Cash		77 00
March 20	Cash		16 25	May 11	Cash		10 65
April 1	Sundries		78 66	Dec. 8	Cash	*111	10 00

May	10	Cash		12 42		31	Expense account	111	306 00
	20	Cash	105	9 23			New account		985 20
June	1	Cash		4 00					
	27	Cash		33 08					
July	1	Sundries	106	76 82					
	22	Cash		18 75					
Sept'r	20	Cash	108	80 00					
Oct'r	1	Sundries	109	68 16					
	12	Sundries		65 00					
	22	Sundries		78 95					
Dec'r	8	Cash	111	26 69					
	21	Cash		8 00					
	31	Sundries	112	138 04					
		Sundries		96 74					
				1,414 45					1,414 45
1841						1841			
Jan'y	1	To balance brought forward		985 20		Feb.	20 By Cash	113	50 00
	30	Cash	113	19 75		Sept.	17 Cash	116	52 50
Feb'y	8	Cash		1 00		Dec.	31 Sundries	118	566 00
March	6	Cash	114	4 75			New account		2,291 67
	31	Cash		99 34					
May	19	Cash		6 93					
	28	Cash	115	15 00					
July	29	Sundries		13 41					
Sept'r	17	Sundries		131 00					
Oct'r	16	Sundries	116	30 00					
Nov'r	10	Sundries	117	41 31					
Dec'r	31	Sundries	118	21 56					
		Sundries		1,590 92					
				2,960 17					2,960 17
1842									
Jan'y	1	To balance brought forward		2,291 67		Oct.	12 By Board	122	325 71
March	30	Sundries	119	137 00		Dec.	31 Sundries	123	136 60
August		Sundries	121	10 00			New account		2,414 80

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DR. *Mrs. Anna Tufts*—Continued. CR.

	To Sundries	122	$50 94				
Dec'r 31	Sundries	123	387 50				
			2,877 11				$2,877 11
1843							
Jan'y 1	To balance brought forward		2,414 80	December	By Sundries	126	167 40
Dec'r 2	Cash	126	40 00		New account		2,682 28
	Interest		394 88				
			2,849 68				2,849 68
1844	L. F. 79.			1844	L. F. 79.		
Jan'y 1	To balance account brought forward		2,682 28	December	By Sundries	128	152 00
Feb'y 10	1 cask powder	127	5 25				
December	Powder	128	8 25				
	Sundries		463 54				

Dr. *Thomas W. Short*.—(L. F. 1.) Cr.

		J. F.				J. F.	
1828				1827			
March	To glue harrows	*1	$27 00	Dec. 21	By Planes	*1	$2 75
Dec'r 17	Barrels	*1	5 50	1829			
1829				Jan'y 30	A. Tuft's account	*1	38 66
Jan'y 30	Cash	*2	6 16				
Feb'y 10	Cash	*2	2 75				
			41 41				41 41
1831				1834			
July 21	To Hay	*15	6 00	Mar. 26	By Manure	49	60 00
Nov'r 30	Seaweed	*16	2 25				
1832							
Feb'y 25	Stalks	19	2 00				
28	Hay		8 65				
July	Diking	25	5 00				
1834							
Jan'y 18	Cash	47	15 00				
March 26	Sundries	49	21 10				
			60 00				60 00
1834							
May 2	To Trees	50	1 00	October	By Cash	55	1 00

Dr. *Josiah Hastings*, (*Weston*.)—(L. F. 11.) Cr.

1832				1832			
March 10	To Hay	19	$8 57	Mar. 10	By 297 faggots	20	$7 42
April 7	Hay	20	6 00	July 6	Sundries	*25	7 15
			14 57				14 57

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DR. *H. N. Fiske.*—(L. F. 11.) CR.

1832 April 14	To Trees	21	$4 00	1837 March 27	By Sundries	*79	$7 34
1836 May 6	Trees	69	3 34				
			7 34				7 34

DR. *Geo. Murdoch*—(L. F. 13.) CR.

1832 March 16	To Hay	21	$5 09	1832 May 22	By Cash	22	$13 39
April 12	Hay		3 67				
26	Hay		4 63				
			13 39				13 39

DR. *Corey, (Newton.)*—(L. F. 13.) CR.

1832 March 23	To 2 loads hay	21	$14 61	1832 May 22	By Cash	22	$14 61

DR. *E. Woodbury.*—(L. F. 7.) CR.

1832 April 24	To Straw	21	$4 18	1833 July 2	By Sundries	39	$4 18

Dr. *John L. Jennison.*—(L. F. 10.) Cr.

1832		J. F.		1835		J. F.	
August 17	To Hay	26	$10 20	Aug. 22	By Sundries	63	$10 20

Dr. *John McDuffie.*—(L. F. 13.) Cr.

1834				1843			
May 2	To Trees	50	$2 75	December	By Cash	124	$2 75

Dr. (Part of) *Charles Smith.*—(L. F. 5.) Cr.

1836				1837			
April 26	To Sundries	80	$6 00	August 1	By Cash	*81	$6 00

(The rest not relative.)

Dr. *Stock account.*—(L. F. 46.) Cr.

1837				1837			
January 1	To Sundries	76	$2,412 57	Jan'y 1	By Sandries	76	$8,126 96
				1841			
				Dec'r 31	Sundries	118	255 55

DR. *N. K. Lombard.*—(L. F. 14.) CR.

1832							
May 21	To Sundries	22	$1 44		By note and interest, given for piano		$77 28
24	Sundries		70				
30	Sundries	23	2 38				
June 1	Sundries		4 82				
18	Sundries		3 20				
25	Sundries	24	1 21				
July 2	Sundries		25				
13	Sundries	25	1 75				
August 1	Sundries	26	16				
14	Sundries		25				
24	Sundries		17				
Sept'r 26	Sundries	28	2 58				
1833							
Jan'y 23	Hog	33	16 80				
28	Sundries		2 38				
May 10	Sundries	37	40				
20	Sundries		32				
31	Sundries	38	40				
June 5	Sundries		25				
8	Sundries		2 25				
29	Sundries	39	3 50				
July 4	Sundries		3 30				
August 27	Sundries	42	2 50				
Oct'r 19	Hog	44	23 00				
1834							
May 12	Sundries	51	1 62				
29	Sundries		70				
June 9	Sundries		70				
October 3	Sundries	53	25				
			$77 28				$77 28

Dr. *Cambridge Estate.*—(L. F. 50.) Cr.

		J. F.				J. F.	
1837				1843			
January 1	To Cash	76	$3,944 00	January	By Gravel account	124	$310 32
1842				July	Cash	125	36 00
May	Cash	120	69 37	1844			
	J. Knight		36 08	Sept'r 9	Sundries	127	7,500 00
August 1	Sundries	121	127 05				
Nov'r 10	Sundries	122	40 64				
	Sundries		5 32				
1843							
April	Sundries	124	25 15				
December	Sundries	126	14 40				
	Sundries		33 00				

Dr. *Charles Haynes, agent.*—(L. F. 9.) Cr.

1831							
Nov'r 28	To Seaweed	*16	$4 00		By amount carried to page	*27	$269 01
Various dates	Powder	*	265 01				
			269 01				269 01
				1834	L. F. 27.		
1833	To amount from page	9	269 01	Feb'y 6	By Sundries	48	496 20
1833-4	Powder	*	227 19				
			496 20				496 20
1834				1835			
Feb'y 6	To error, &c., old bill	48	2 64	July 28	By Sundries	63	280 79
July 28	Sundries	62	124 02				
Var. dates	Powder	*	154 13				
			280 79				280 79

DR. *Charles Haynes*—Continued. CR.

1836				1836			
Dec'r 31	To Sundries	75	$23 95	Dec'r 31	By Cash	75	$97 95
Var. dates	Powder	*	74 00				
			97 95				97 95
				1838	L. F. 54.		
1837	To am't from page 27, being all powder	*	27 00	Dec'r 31	By Anna Tufts	93	115 04
Var. dates	Powder	*	58 50				
Dec'r 31	New account	*	29 54				
			115 04				115 04
				1839			
1839-40	To Powder	*	173 00	Jan'y 1	By balance brought forward		29 54
				Dec'r 28	N. received	*102	112 50
				1840			
				Dec'r 31	Cash	*112	30 96
			173 00				173 00
				1841			
1841-2	To Powder	*	16 13	Dec'r 31	By Sundries	118	88 78
1842				1842			
July 4	C. Morrill	*120	42 67	August 1	Sundries	121	17 15
	Gravel	121	46 50				
August	Cash	*	63				
			105 93				105 93

Dr. *John M. St. Clair.*—(L. F. 87.) Cr.

1842				1842			
July 1	To 303 loads gravel	120	$45 45	Aug. 2	By Trucking	121	$11 50
1843				16	Cash		33 95
July	248 loads gravel	125	36 75	1843			
December	398 loads gravel		59 25	Novemb'r	Cash	125	36 75
				1844			
				January	Cash	127	59 25

Dr. *Interest account.*—(L. F. 56.) Cr.

		J. F.				J. F.	
1837				1837			
May 12	To Cash	*80	$45 00	April 1	By Mrs. A. Tufts	79	$59 16
Nov'r 18	Cash	*84	5 00	8	C. & B.	*80	14 80
	Cash	*	45 00	July 1	A. T.	81	59 16
1838				Oct'r 1	A. T.	83	59 16
May 5	Cash	*87	45 00	Dec'r 31	A. T.	84	59 16
August 1	Cash	*90	45 00		Cash	85	49 56
Sept'r 20	Cash	*91	34 20	1838			
Nov'r 10	Cash	*92	161 88	Feb'y 23	Cash	*86	7 00
Dec'r 31	P. & L.	*94	732 33	April 1	A. T.	87	59 16
					S. B. M.	*87	135 78
					S. B. M.	*	4 90
				July 1	A. T.	89	59 16
				Oct'r 1	Sundries	91	343 14
				Dec'r 8	I. B.	*92	2 12
				31	A. T.	93	59 16
					S. B. M.	*94	141 99
			1,113 41				1,113 41
1839				1839			
Jan'y 21	To Cash	*96	2 62	April 1	By A. T.	97	59 16

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DR. *Interest account*—Continued. CR.

Feb'y 23	To Cash	*96	$210 00	July 1	By A. T.	99	$59 16
	Cash	*	116 88	Oct'r 1	A. T.	101	59 16
May 6	Cash	*98	45 00	Dec'r 31	A. T.	103	86 15
August 3	Cash	*100	116 88	1840			
Oct'r 18	Cash	*102	45 00	April 1	A. T.	104	59 16
1840				July 1	A. T.	106	59 16
May 2	Cash	*105	45 00	Oct'r 1	A. T.	109	59 16
Oct'r 13	Cash	*109	16 00	Dec'r 1	E. T.	*110	79 38
Nov'r 3	Cash	*110	6 00		E. T. & Co.	*	40 75
14	Cash	*110	45 00	Dec'r 31	A. T.	112	59 16
Dec'r 31	M. & B.	112	4 20		A. T.	.....	32 68
1841				1841			
Feb'y 8	Cash	*113	16 00	Dec'r 1	Sundries	*117	147 27
May 19	Cash	*114	45 00	31	A. T.	118	620 22
Nov'r 10	Cash	*117	4 10	1842			
27	C. & Mackay	*	35 24	Dec'r 31	A. T.	123	387 50
	Cash	*	45 00				
May 22	Cash	*120	45 00				
Aug. 20	M. & B.	*121	3 25				
Nov'r 10	Cash	*122	45 00				
1843							
January	P. & L.	*124	916 90				
			1,808 07				1,808 07
December	To Cash	*126	90 00	December	By A. T.	126	394 88
					A. T.	128	410 94

Dr. *Gravel account.*—(L. F. 89.) Cr.

1840 January	To C. estate	124	$310 32	1842 July 1	By Sundries	120	$91 95
				August	Sundries	121	41 32
					Sundries		8 90
				Novemb'r	Sundries	122	133 20
				December	Sundries	123	34 95
			310 32				310 32
				1843 July	By Sundries	125	45 60
					Sundries		56 55
				Novemb'r	Sundries		27 55
				December	Sundries		180 36
				July	Sundries	127	

Dr. *G. A. Gale & Co.*—(L. F. 90.) Cr.

1843 January	To Cash	J. F. 124	$35 00	August 1	By Lumber	J. F. 121	$98 40
April	Cash		63 40				
			98 40				

Dr. *A. A. Watson.*—(L. F. 91.) Cr.

1842 November	To 149 loads gravel	122	$22 35	1843 January	By Cash	125	$22 35

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No. 212 Ex. B.

DR. *Munroe & Cook.*—(L. F. 92.) CR.

1842				1843			
Nov'r 23	To 1 quarter cask powder.....	123	$2 50	December	By expense account.....	*125	$43 53
1843							
July	132 loads gravel.....	125	19 80				
December	Cash.....	*126	21 23				
			43 53				

DR. *West Boston Bridge Co.*—(L. F. 88.) CR.

1842				1842			
August 20	To 206 loads gravel.....	121	$30 90	August	By Cash.....	121	$30 90
November	154 loads gravel	122	23 10	December	Cash.....	123	23 10
1843				1844			
December	84 loads gravel	125	12 60	December	A. T.....	128	12 60

DR. *John Boynton, (Brighton.)*—(L. F. 75.) CR.

1844							
July	To 92 loads gravel.....	127	$13 80				

DR. *Daniel Murphy.*—(L. F. 19.) CR.

1843							
December	To 37 loads gravel.....	125	$5 55				
1844							
July 1	"	127					

DR. (Part of) *J. A. Holmes & Co.*—(L. F. 30.) CR.

1842				1842			
May 14	To Powder	*120	$ 2 50	Aug. 20	By Cash	121	$5 17
August 20	Gravel	121	2 67				
			5 17				

DR. (Part of) *Town of Cambridge*.—(L. F. 36.) CR.

1842		J. F.		1842		J. F.	
December	To 565 loads gravel	122	$84 75	Dec'r 31	By Cash	123	$84 75
15	2 qr. casks powder	*123	5 00	1844			
1843				January	Cash	127	92 96
December	733 loads gravel	125	87 96				
			177 71				177 71
1844							
July 1	To 366 loads gravel	127	54 96	November	By Cash	127	54 96

DR. *St. Peter's Church*.—(L. F. 35.) CR.

1843							
December	To 100 loads gravel	125	$15 00				
July 1	"	*127					

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Dr.	*Elbridge Tufts & Co.*		Cr.		
1839			1840		
Dec'r 17	To Sundries	$452 40	Sept'r 9	By Cash	$200 00
31	Sundries	36 48	15	Cash	1,115 40
1840			23	Cash	680 00
July 14	Notes payable	1,569 25	Dec'r 1	N. P.	850 00
22	Notes payable	400 00		Balance carried forward	1,840 38
August 1	Notes payable	268 40			
18	Notes payable	1,650 00			
21	Notes payable	200 00			
Oct'r 13	Notes payable	32 00			
	Cash	16 00			
Nov'r 14	Cash	20 50			
Dec'r 7	Interest account	40 75			
		4,685 78			4,685 78
	To balance brought forward	1,840 38	Dec'r 31	By sales cotton	2,307 76
	Notes payable	21 00	1841		
1841			Nov'r 27	C. & Mackeys	453 50
Feb'y 4	Notes payable	61 61	Dec'r 1	Notes received	2,665 76
	Cash	1,271 29			
8	Cash	850 50			
March 31	Cash	35 00			
July 16	N. P.	150 00			
Oct'r 1	Cash	300 00			
Nov'r 10	Cash	189 00			
27	C. & M.	25 52			
Dec'r 1	Interest account	115 14			
	E. T.	567 58			
		5,427 02			5,427 02
1842					
March 31	To Notes payable	453 50			
Sept'r 28	Notes payable	510 00			

Extracts.

Folio in	L.	Folio in Day Book, 5.	
1829			
Nov'r 22	8	Anna Tufts.....Dr.	
		To Cash paid Jacob Smith, 1 qr. tax on Pew No. 36, in U. meeting-house	$3 00
		— 5. —	
Dec'r 2	8	Mrs. Anna Tufts.....Dr.	
		To Cash paid for spikes and gimlet ... 22	
		Cash paid for file ... 10	
		—	32
		— 6. —	
29	8	Mrs. Anna Tufts.....Dr.	
		To Cash paid J. Goodnow, balance of account ... 2 85	
		Cash paid for tolls ... 12	
		Cash paid for tan ... 25	
		Cash paid Miss Harris, January 7 ... 1 00	
		—	4 22
1830		— 6. —	
Feb'y 11	8	Mrs. Anna Tufts.....Dr.	
		To Cash paid Jacob Smith, pew tax	3 00
		— 7. —	
18	8	Mrs. Anna Tufts.....Dr.	
		To Cash paid G. King ... 1 00	
		Cash paid L. Gray's bill ... 1 25	
		—	2 25
		— 7. —	
25	8	Mrs. Anna Tufts.....Dr.	
		To Cash paid N. Fisk & Co., 10 bushels corn ... 4 50	
		Cash paid for ploughshares ... 1 74	
		Cash received by her of T. of C., for powder, April 12 ... 12 75	
		—	18 99
		— 7. —	
May 14	8	Mrs. Anna Tufts.....Dr.	
		To Cash, May 4th	4 00
		— 8. —	
19	8	Mrs. Anna Tufts.....Dr.	
		To Cash paid N. Fiske & Co.'s bill	8 45
		— 8. —	
26	8	Mrs. Anna Tufts.....Dr.	
		To Cash ... 5 00	
		Cash paid J. Hadley, 29th ... 1 00	
		Cash paid for glue, 31st ... 25	
		Cash paid for seeds ... 13	
		—	6 38
1830	F. L.	— 8. —	
June 15	8	Mrs. Anna Tufts.....Dr.	
		To Cash paid J. Hadley's bill ... 7 00	
		Cash ... 10 00	
		Cash for seeds ... 12	
		— 8. —	17 12
July 7	8	Mrs. Anna Tufts.....Dr.	
		To Cash paid H. G. Ware, for 1 pound tea ... 1 00	
		Cash paid H. G. Ware, for 20 pounds raisins .. 1 30	
		Cash paid for turnip seed ... 38	
		—	2 68

Extracts—Continued.

		— 9. —	
August 7	8	Mrs. Anna Tufts.....Dr.	
		To Cash for barrel.....	$0 65
		Folio 9, J.	
12	8	Mrs. Anna Tufts.....Dr.	
		To Cash paid A. Cutter, for wagon..... 20 00	
		Cash paid N. Fiske & Co., for grain, 24th.... 15 19	
			35 19
		— 10. —	
Sept'r 18	8	Mrs. A. Tufts.....Dr.	
		To Cash paid H. K. Spencer..... 5 00	
		Cash paid for nails..... 12	
		Cash received of W. Wumick, for boat..... 25	
			5 37
		— 10. —	
Oct'r 4	8	Mrs. Anna Tufts.....Dr.	
		To Cash paid F. Mason, on account taxes..... 5 00	
		Cash paid J. Balch, tax..... 92	
		— 10. —	
Nov'r 2	8	Mrs. Anna Tufts.....Cr.	
		By Messrs. Cutter & Cummings' due bill, dated this day	46 83
		— 11. —	
6	8	Mrs. A. Tufts.....Dr.	
		To cash paid on account of T. Dowse's bill..... 18 50	
		Cash..... 2 00	
			20 50
		— 11. —	
25	8	Mrs. Anna Tufts.....Dr.	
		To Cash paid N. Childs, for butter..... 3 38	
		Cash paid W. & Wheeler, for glass..... 66	
			4 04
		— 11. —	
1830	F. L.		
Dec'r 4	8	Mrs. Anna Tufts.....Dr.	
		To Cash paid for lime casks..... 2 50	
		Cash paid for putty..... 12	
		Cash paid for pew taxes..... 1 13	
		Cash paid for weighing straw..... 19	
		Cash paid for buttons and silk..... 35	
			4 29
		— 12. —	
1831			
Jan'y 18	8	Mrs. A. Tufts.....Dr.	
		To Cash paid H. G. Ware his bill, sundries..... 3 07	
		Cash paid Mr. Frothingham..... 5 00	
		Cash paid for bake kettle lid..... 50	
			8 57
		— —	
Feb'y 12	8	Mrs. Anna Tufts.....Dr.	
		To cash paid Cutter & Perkins, for oil..... 3 75	
		Cash paid John Mathews..... 3 00	
		Cash paid 1 M. tacks..... 15	
		Cash paid cotton cloth..... 40	
			7 30

			— 12. —	
Feb'y	21	8	Mrs. A. Tufts.....Dr.	
			To Cash paid Mr. Rice, on account hog..... 1 69	
			Cash paid freight on frame..... 3 25	
			Cash paid, lining, &c..... 48	
			Cash paid Smith, pew tax..... 3 75	
			Cash paid Elbridge, hat..... 75	
			—	$9 92
			— 13. —	
April	2	8	Mrs. Anna Tufts.....Dr.	
			To Cash..... 2 00	
			Cash, paid for baskets..... 20	
			Cash..... 16 75	
			— 13. —	
	23	8	Mrs. A. Tufts.....Dr.	
			To Cash..... 4 75	
			Cash, paid N. Fisk for oats..... 2 88	
			— 13. —	
May	7	8	Mrs. A. Tufts.....Dr.	
			To Cash paid for barley..... 1 00	
			Cash paid for salt..... 52	
			Cash, 28th..... 50	
			—	2 02
			— 13. —	
June	1	8	Mrs. Anna Tufts.....Dr.	
			To Cash paid A. Cutter, account of chaise..... 32 50	
			Cash..... 5 00	
			—	37 50
			— 14. —	
	9	8	Mrs. Anna Tufts.....Dr.	
			To Cash..... 50	
			Cash paid for scythe..... 92	
		F. L.	—	1 42
1831			— 14. —	
June	10	8	Mrs. A. Tufts.....Cr.	
			By Cash of P. B. Hovey, balance of account..... 4 04	
			1 pair socks..... 50	
			—	4 54
			— 14. —	
July	4	8	Mrs. A. Tufts.....Dr.	
			To cash paid E. Fogg.....	16 00
			— 14. —	
	14	8	Mrs. A. Tufts.....Dr.	
			To Cash..... 1 00	
			Cash for leather for pump box..... 20	
			Cash..... 13	
			Cash paid for grain..... 2 28	
			—	3 61
			— 15. —	
August	9	8	Mrs. A. Tufts.....Dr.	
			To Cash..... 2 00	
			Cash for turnip seed..... 25	
			Cash, C..... 50	
			— —	2 75
October	1	8	Mrs. Anna Tufts.....Cr.	
			By Cash received of J. Dodge, for seat 1 qr., in pew, to August 1st, 1831.....	75

		— 9. —	
August 7	8	Mrs. Anna Tufts.....Dr.	
		To Cash for barrel.....	$0 65
		Folio 9, J.	
12	8	Mrs. Anna Tufts.....Dr.	
		To Cash paid A. Cutter, for wagon..... 20 00	
		Cash paid N. Fiske & Co., for grain, 24th.... 15 19	
			35 19
		— 10. —	
Sept'r 18	8	Mrs. A. Tufts.....Dr.	
		To Cash paid H. K. Spencer..... 5 00	
		Cash paid for nails..... 12	
		Cash received of W. Wumick, for boat..... 25	
			5 37
		— 10. —	
Oct'r 4	8	Mrs. Anna Tufts.....Dr.	
		To Cash paid F. Mason, on account taxes..... 5 00	
		Cash paid J. Balch, tax..... 92	
		— 10. —	
Nov'r 2	8	Mrs. Anna Tufts.....Cr.	
		By Messrs. Cutter & Cummings' due bill, dated this day	46 83
		— 11. —	
6	8	Mrs. A. Tufts.....Dr.	
		To cash paid on account of T. Dowse's bill..... 18 50	
		Cash..... 2 00	
			20 50
		— 11. —	
25	8	Mrs. Anna Tufts.....Dr.	
		To Cash paid N. Childs, for butter..... 3 38	
		Cash paid W. & Wheeler, for glass..... 66	
			4 04
		— 11. —	
1830	F. L.		
Dec'r 4	8	Mrs. Anna Tufts.....Dr.	
		To Cash paid for lime casks..... 2 50	
		Cash paid for putty..... 12	
		Cash paid for pew taxes..... 1 13	
		Cash paid for weighing straw..... 19	
		Cash paid for buttons and silk..... 35	
			4 29
		— 12. —	
1831			
Jan'y 18	8	Mrs. A. Tufts.....Dr.	
		To Cash paid H. G. Ware his bill, sundries..... 3 07	
		Cash paid Mr. Frothingham..... 5 00	
		Cash paid for bake kettle lid..... 50	
			8 57
		— —	
Feb'y 12	8	Mrs. Anna Tufts.....Dr.	
		To cash paid Cutter & Perkins, for oil..... 3 75	
		Cash paid John Mathews..... 3 00	
		Cash paid 1 M. tacks..... 15	
		Cash paid cotton cloth..... 40	
			7 30

			— 12. —	
Feb'y	21	8	Mrs. A. Tufts.....Dr.	
			To Cash paid Mr. Rice, on account hog..... 1 69	
			Cash paid freight on frame..... 3 25	
			Cash paid, lining, &c..... 48	
			Cash paid Smith, pew tax..... 3 75	
			Cash paid Elbridge, hat..... 75	
			——	$9 92
			— 13. —	
April	2	8	Mrs. Anna Tufts.....Dr.	
			To Cash..... 2 00	
			Cash, paid for baskets..... 20	
			Cash..... 16 75	
			— 13. —	
	23	8	Mrs. A. Tufts.....Dr.	
			To Cash..... 4 75	
			Cash, paid N. Fisk for oats..... 2 88	
			— 13. —	
May	7	8	Mrs. A. Tufts.....Dr.	
			To Cash paid for barley..... 1 00	
			Cash paid for salt..... 52	
			Cash, 28th..... 50	
			——	2 02
			— 13. —	
June	1	8	Mrs. Anna Tufts.....Dr.	
			To Cash paid A. Cutter, account of chaise..... 32 50	
			Cash..... 5 00	
			——	37 50
			— 14. —	
	9	8	Mrs. Anna Tufts.....Dr.	
			To Cash..... 50	
			Cash paid for scythe..... 92	
		F. L.	—	1 42
1831			— 14. —	
June	10	8	Mrs. A. Tufts.....Cr.	
			By Cash of P. B. Hovey, balance of account..... 4 04	
			1 pair socks..... 50	
			——	4 54
			— 14. —	
July	4	8	Mrs. A. Tufts.....Dr.	
			To cash paid E. Fogg.....	16 00
			— 14. —	
	14	8	Mrs. A. Tufts.....Dr.	
			To Cash..... 1 00	
			Cash for leather for pump box..... 20	
			Cash..... 13	
			Cash paid for grain..... 2 28	
			——	3 61
			— 15. —	
August	9	8	Mrs. A. Tufts.....Dr.	
			To Cash..... 2 00	
			Cash for turnip seed..... 25	
			Cash, C..... 50	
			— —	2 75
October	1	8	Mrs. Anna Tufts.....Cr.	
			By Cash received of J. Dodge, for seat 1 qr., in pew, to August 1st, 1831.....	75

Extracts—Continued.

			— —	
Oct'r	1	8	Mrs. Anna Tufts.....Dr.	
			To Cash..... 33	
			To cash paid for meat..... 54	
			Cash, lot boxes delivered Mr. Morse..... 7 25	
				$8 12
			— 16. —	
	1	8	Mrs. Anna Tufts.....Cr.	
			By Cash paid Fogg, half getting hay.....	8 00
			— 16. —	
Nov'r	12	8	Mrs. Anna Tufts.....Dr.	
			To Cash, paid half ton coal..... 3 37	
			Cash..... 25	
				3 62
			— 16. —	
	30	8	Mrs. Anna Tufts.....Cr.	
			By Cash received of E. Brown, for gravel..... 1 62	
			Cash received of T. of C..... 4 68	
			Cash received of J. Dodge, pew rent..... 75	
			Cash received of N. Lock, sauce..... 5 00	
				12 05
			— 17. —	
Dec'r	3	8	Mrs. Anna Tufts.....Dr.	
			To Cash..... 4 00	
			Cash paid for tin baker..... 2 25	
			Cash paid for blower..... 31	
				6 56
1831		F. L.	— 17. —	
Dec'r	31	8	Mrs. Anna Tufts.....Dr.	
			To cash paid Mr. Daniels, for fixing pump..... 1 75	
			Cash paid J. Abbott, for ashes, 1830..... 3 29	
			Cash paid H. G. Ware, for rice..... 25	
				5 29
			— —	
	31	8	Mrs. Anna Tufts.....Cr.	
			By cash received of E. Kimball, for gravel..... 4 96	
			2 pair stockings of C. Morse, 3s., 3s. 9d..... 1 12	
				6 08
1832			— 18. —	
January	7	8	Mrs. Anna Tufts.....Dr.	
			To Cash paid P. Gookin..... 1 12	
			Cash..... 93	
			Cash, for salt..... 62	
				2 67
			— 18. —	
	13	8	Mrs. Anna Tufts.....Dr.	
			To Cash paid F. Cutter for bricks..... 70	
			Cash paid Cutter & Perkins, inter't from July 1, 1831, to January 1, 1832, on $4,004.... 120 42	
				121 12
			— 18. —	
Feb'y	16	8	Mrs. A. Tufts.....Dr.	
			To Cash paid David Stone's bill..... 62	
			Cash paid Israel Childs' bill..... 4 06	
			Cash paid James Twing..... 3 08	
			Cash paid Cutter & Perkins for oil..... 4 25	
				12 01

		— 19. —	
Feb'y 25	1	Thomas W. Short.....Dr.	
		To 100 bundles stalks, 2c.....	$2 00
		— 19. —	
28	21	Thomas W. Short.....Dr.	
		To 2 loads salt hay, weighing nett 2,746, at 30.... 8 24	
		Weighing..... 41	
			8 65
		— 19. —	
March 2	8	Mrs. Anna Tufts.....Dr.	
		To Cash.....	1 76
		— —	
2	8	Mrs. A. Tufts.....Cr.	
		By board of A. Drake, from April 25 to November 12, 1831, 28 5-7 weeks, at 9s..... 43 07	
		14 yards shirting, 9d..... 1 75	
		½ yard linen, 6s. 9d..... 56	
		Making 2 pair shirts, at 50..... 1 00	
			46 38
1832	F. L.	— 19. —	
March 10	11	Josiah Hastings, (Weston,).....Dr.	
		To load salt hay, delivered his son Henry, weighing 2,548 pounds, at 2s. per hundred.....	8 57
		— 20. —	
10	11	Josiah Hastings.....Cr.	
		By 297 faggots, delivered this day, 15s.....	7 42
		— 20. —	
10	8	Mrs. Anna Tufts.....Dr.	
		To 297 faggots, delivered by Mr. Hastings.....	7 42
23	–	— 20. —	
Paid	–	Mrs. C. Brackett.....Dr.	
		To 1 pig, weighing about 100 pounds.....	5 00
		— 20. —	
31	8	Mrs. Anna Tufts.....Dr.	
		To Cash paid interest to Cutter & Perkins, to date 47 04	
		Cash, interest on $1,000, from January 1, paid C. & P..... 15 00	
			62 04
		— 20. —	
April 5	8	Mrs. Anna Tufts.....Cr.	
		By Cash received of F. Dana, for sea weed, 1830 1 00	
		Board of myself, from Nov. 17, 1829, to April 5, 1832, 124 weeks, at $3..... 372 00	
			373 00
		— 20. —	
7	11	Josiah Hastings.....Dr.	
		To 1 load salt hay, delivered Henry from stack.....	6 00
		— 21. —	
14	11	H. N. Fisk, (Waltham,).....Dr.	
		To 13 apple trees, 25c..... 3 25	
		2 pear trees, 2s. 3d..... 75	
			4 00

Extracts—Continued.

		— 21. —	
April	19	8	Mrs. A. Tufts.....Dr.
			To Cash paid N. Fisk & Co..... 10 00
			Cash paid postage..... 19
			Cash paid shovel and hoe..... 2 12
			Cash paid radish and cabbage seed..... 13
			Cash paid postage..... 19
			$12 63
	24	13	— 21. —
			George Murdock, (Waltham,).....Dr.
			To 1 load salt hay, March 16, weigh'g 1,567, at 32½ 5 09
			1 load salt hay, April 12, weigh'g 1,131, at 32½ 3 67
			1 load salt hay, April 26, weigh'g 1,425, at.... 4 63
			13 39
1832		F. L.	— 21. —
April	24	13	Corey, (Newton.)
			To 2 loads salt hay, March 23, weighing 3,238 pounds, at 32½ per hhd..... 14 61
			— 21. —
April		7	E. Woodbury.....Dr.
			To load straw, weighing 1,008 lbs., at 40c..... 4 03
			Weighing..... 15
			4 18
			— 22. —
May	7	8	Mrs. Anna Tufts.....Dr.
			To cash paid P. R. Russel..... 1 40
			To Cash paid, 11th..... 1 00
			To Cash paid, 12th..... 3 00
			5 40
			— 22. —
	17	14	N. K. Lombard.....Dr.
			To sundry vegetables this date..... 1 44
			— 22. —
	21	8	Mrs. A. Tufts.....Dr.
			To cash..... 3 00
			Cash paid A. A. Hillard, balance of account... 1 49
			4 49
			— 22. —
	22	13	G. Murdoch.....Cr.
			By Cash in full for hay..... 13 39
			— —
	22	13	Corey.....Cr.
			By Cash of G. Murdoch, for hay..... 14 61
			— 22. —
	24	14	N. K. Lombard.....Dr.
			To sundry vegetables this day..... 70
			— 22. —
	30	15	Mrs. A. Tufts.....Dr.
			To Cash..... 3 50
			Cash, per Ann..... 1 00
			4 50
			— 23. —
	30	14	N. K. Lombard.....Dr.
			To 1 pig..... 2 00
			3 bunches asparagus, 12½..... 38
			2 38

		— 23. —	
June 1	14	N. K. Lombard.....Dr.	
		To Sundries, vegetables, and pig, this date.....	$4 82
		— —	
	15	Mrs. Anna Tufts.....Cr.	
		To Cash received of P. Tower & Co., 80 loads sand, 1831..... 4 00	
		Cloth for pants, and pair socks, 2s., 2¾ yards, 3s. 6d..... 1 93	
		Cash received for asparagus..... 12	
			6 05
1832	F. L.	— 23. —	
June 18	14	N. K. Lombard.....Dr.	
		To sundry vegetables and pig, this date.....	3 20
		— 23. —	
18	15	Mrs. Anna Tufts.....Dr.	
		To Cash..... 12	
		Cash paid for coal..... 4 50	
		Cash paid E. T. Hastings, for salt and P..... 1 07	
			5 69
		— 23. —	
22	15	Mrs. A. Tufts.....Cr.	
		By Cash received for pork..... 2 50	
		Cash received for asparagus..... 10	
			2 60
		— 24. —	
25	14	N. K. Lombard.....Dr.	
		To Sundries, this date.....	1 21
		— 24. —	
25	15	Mrs. A. Tufts.....Dr.	
		To Cash paid N. Fisk & Co., for grain..... 1 32	
		Cash paid D. L. Mudge..... 100	
			2 32
		— —	
July 2	14	N. K. Lombard.....Dr.	
		To sundries, this date.....	25
		— 25. —	
6	15	Mrs. A. Tufts.....Dr.	
		To due bill allowed J. Hastings..... 4 49	
		Cash paid for bread..... 13	
			4 62
		— 25. —	
10	15	Mrs. A. Tufts.....Cr.	
		By cash received of Stanley, Reed & Co., board... 1 00	
		Cash received of J. Mowe, balance account.... 1 51	
			2 51
		— 25. —	
10	1	Thomas W. Short.....Dr.	
		To your part for fixing dike, as agreed.....	5 00
		— 25. —	
13	14	N. K. Lombard.....Dr.	
		To 1 pig..... 1 50	
		4 quarts currants, 1¼..... 25	
			1 75

Extracts—Continued.

			— —	
July	18	15	Mrs. A. Tufts.....Dr.	
			To Cash paid A. Cutter, interest..... 44 33	
			Interest on $1,181 71, from April 1 to July 1, money paid A. Cutter, 3 months..... 17 73	
				$62 06
1832.		F. L.	— 26. —	
July	24	15	Mrs. Anna Tufts.....Dr.	
			To Cash paid for grain 1 50	
			On acc't bbl. flour 3 50	
				5 00
			— 26. —	
Aug.	1	14	N. K. Lombard .....Dr.	
			To 2 boxes currants.....	16
			— 26. —	
	2	15	Mrs. Anna Tufts.....Dr.	
			To Cash paid for scythes, 4s. 6d., 5s. 3d..... 1 63	
			Cash paid for bread 12	
			— —	1 75
	14	14	N. K. Lombard .....Dr.	
			To 1½ doz. eggs.....	25
			— —	
	17	10	J. L. Jennison.....Dr.	
			To load hay, 441 hnd. del'd July 27, at 75 ..... 3 30	
		8	load hay, 885 hnd. del'd July 27..... 6 64	
			weighing..... 26	
			— —	10 20
	24	14	N. K. Lombard.....Dr.	
			To 1 doz. eggs.....	17
			— 27. —	
	29	15	Mrs. A. Tufts.....Dr.	
			To Cash..... 5 00	
			Cash paid weighing hay..... 33	
				5 33
			— 27. —	
Sept.	1	15	Mrs. A. Tufts.....Dr.	
			To cash paid for meal	1 90
			— 27. —	
	11	15	Mrs. A. Tufts.....Cr.	
			By Cash received for pig..... 3 50	
			Cash received for E. Hovey..... 7 00	
				10 50
			— 27. —	
	12	15	Mrs. Anna Tufts.....Dr.	
			To Cash paid J. Draper, bal. acct..... 18 27	
			Cash paid Mrs. Draper 75	
				19 02
			— 28. —	
	19	15	Mrs. A. Tufts.....Dr.	
			To Cash (cow) 50	
			1 pair ducks, 2s..... 67	
				1 17
			— 28. —	
	26	14	N. K. Lombard .....Dr.	
			To 1 pig, weighing 21 lbs..... 2 50	
			5 eggs 08	
				2 58

1938.

Extracts—Continued.

1832.	F. L.			
Sept. 27	15	— 28. —		
		Mrs. A. Tufts.....Dr.		
		To Cash paid for hoes.....	88	
		Cash paid for bread	12	
		Cash paid A. Cutter, int. to Oct. 1.....	44 33	
		Int. on $1,181, from July 1 to Oct. 1, 3 mos...	17 73	
				$63 06
		— 29. —		
Oct. 4	15	Mrs. Anna Tufts.....Dr.		
		To my note given John Mathews, for work		68 00
		— 29. —		
8	15	Mrs. Anna Tufts.....Cr.		
		By Cash received of Brown for potatoes.....	6 94	
		Cash received 1 bushel.....	40	
		My board of myself, from April 5th to Oct. 4th, 26 weeks.....	78 00	
		Cash received of F. Lane, for potatoes, &c....	6 37	
				91 71
		— 29. —		
19	15	Mrs. Anna Tufts.....Dr.		
		To Cash paid for glass and putty.....	80	
		Cash for pepper.....	20	
				1 00
		— 30. —		
26	15	Mrs. A. Tufts .....Cr.		
		By Cash received for seaweed.....	1 00	
		Cash received for seaweed.....	1 25	
				2 25
		— 30. —		
30	15	Mrs. Anna Tufts.....Dr.		
		To Cash paid F. Manson		9 45
		— —		
Nov. 12	15	Mrs. A. Tufts .....Cr.		
		By Cash received for seaweed.....	75	
		Cash received for seaweed.....	75	
				1 50
		— 30. —		
12	15	Mrs. Anna Tufts.....Dr.		
		To Cash	50	
		Cash	25	
				75
		— 31. —		
16	15	Mrs. Anna Tufts.....Cr.		
		By Cash received of J. Dodge, pew rent.....	75	
		Cash received of J. Conant, bal. stove.....	4 00	
		Cash received of G. Leonard, seaweed.....	25	
				5 00
		— 31. —		
16	15	Mrs. A. Tufts .....Dr.		
		To Cash paid S. Hancock, bal. acc't.....	75	
		Cash paid tolls, Mrs. Sargent.....	25	
				1 00
1832.	F. L.	— 31. —		
Nov. 21	15	Mrs. A. Tufts .....Cr.		
		By cash received of L. Wheeler (seaweed).....	62	
		Cash received of Mrs. Chadwick (cabbage) ..	48	
				1 10

Extracts—Continued.

		— 31. —		
Nov. 23	15	Mrs. Anna Tufts.....Dr.		
		To Cash paid for rye meal	1 17	
		Cash paid for apples.....	75	
		Cash paid for tan.....	13	
		Cash paid for carpeting, &c.....	7 72	
		Amount received for produce in 1831, over one-half	23 32	
				$33 09
		— 31. —		
Dec. 12	15	Mrs. Anna Tufts.....Dr.		
		To Cash paid for meat.....	1 18	
		Cash paid for weighing hay	28	
		Cash paid for tacks.....	10	
				1 56
		— 31. —		
15	15	Mrs. Anna Tufts.....Cr.		
		By Cash received for hay of Downing.....	15 00	
		Cash received for turnips of Parks.....	60	
				15 60
		— 32. —		
22	15	Mrs. Anna Tufts.....Dr.		
		To Cash paid for mending harness.....	17	
		Cash paid for meal	1 17	
		Cash paid for saw.....	1 37	
		Cash paid Tolls cart'g hay to Malden.....	17	
		Cash paid Tolls cart'g hay to Malden.....	14	
		Cash paid w'g hay	15	
		Cash paid A. Cutter, interest on $2,955.27 to Jan. 1, 1833, 3 mos.....	44 33	
		Interest on $1,181.71, from Oct. 1st to Jan'y 1	17 73	
				65 23
		— 32. —		
31	15	Mrs. Anna Tufts.....Cr.		
		By cash received for turnips, 12 bushels.....	2 00	
		Stock of T. P. Goodwin & Co.....	1 00	
		Board from Oct. 1st to date, 12 4-7 weeks.....	37 71	
		Cash received of J. Trowbridge for hay.....	3 60	
				44 31
		— 32. —		
1833. Jan'y 11	15	Mrs. Anna Tufts.....Dr.		
		To Cash paid N. Fisk & Co., bal. acc't	4 62	
		Cash paid E. Davis for ashes	1 69	
				6 31
		— 32. —		
12	15	Mrs. Anna Tufts.....Cr.		
		By Cash received of Dr. Williams (seaweed)	2 00	
		Cash received of Z. Whitney (seaweed).....	87	
				2 87
		— 32. —		
22	15	Mrs. Anna Tufts.....Dr.		
		To Cash paid for killing hog.....		62
		— 33. —		
1833. Jan'y 23	F. L. 14	N. K. Lombard .....Dr.		
		To 1 hog, weighing 240 lbs., at 7 c.....		16 80
		— —		
28	14	N. K. Lombard.....Dr.		
		To 3 bottles cream	38	
		George's board, June 18th, 1 week 2 days, 1.50	2 00	
				2 38

Extracts—Continued.

			— 33. —	
Feb.	4	15	Mrs. Anna Tufts.....Cr.	
			By Cash received of J. Dodge..... 75	
			1 pr. shirts, 5s. 7d..... 2 00	
				$2 75
			— 33. —	
	9	15	Mrs. Anna Tufts.....Dr.	
			To Cash paid on acc't coal.....	4 50
			— 34. —	
	26	15	Mrs. Anna Tufts.....Dr.	
			To Cash paid A. Cutter.....	9 00
			— 34. —	
Mar.	2	15	Mrs. Anna Tufts.....Dr.	
			To Cash paid for rye meal..... 1 17	
			Cash paid for meat..... 65	
			— —	1 82
	7	15	Mrs. Anna Tufts.....Dr.	
			To Cash paid J. Thwing, mending cart.....	50
			— 34. —	
	9	15	Mrs. Anna Tufts.....Cr.	
			By Cash received of J. Downing for hay..... 51 56	
			1 pair stockings..... 62	
				52 18
			— 34. —	
	20	15	Mrs. Anna Tufts.....Dr.	
			To Cash paid J. Reed..... 4 00	
			Cash paid J. Kingsley..... 24 10	
			Cash paid J. Childs' bill..... 9 24	
				37 34
			— 35. —	
April	1	15	Mrs. Anna Tufts.....Dr.	
			To interest on $4,014, from Jan. 1st to date.....	60 21
			— 35. —	
	1	15	Mrs. Anna Tufts.....Cr.	
			By Cash received of A. Cutter, as per acc't..... 25 67	
			Cash board, Jan'y 1 to date, 12 6-7 weeks.... 38 57	
				64 24
1833.		F. L.	— 35. —	
April	5	15	Mrs. Anna Tufts.....Dr.	
			To Cash paid Brown for drake.....	50
			— 36. —	
	10	15	Mrs. Anna Tufts.....Dr.	
			To Cash paid H. G. Ware, raisins, 21, 4 c..... 84	
			Cash paid w'g hay for A. Cutter..... 15	
			Cash paid cabbage and radish seed..... 13	
			Cash paid for butter..... 8 25	
				9 37
			— 36. —	
	18	15	Mrs. Anna Tufts.....Dr.	
			To Cash paid for limes..... 25	
			Cash paid for raisins, 44 lbs., 4 c..... 1 76	
				2 01
			— 36. —	
	27	15	Mrs. Anna Tufts.....Dr.	
			To Cash paid for glass..... 25	
			Cash paid N. Fisk & Co..... 14 42	
				14 67

Extracts—Continued.

			— 36. —	
May	3	15	Mrs. Anna Tufts.....Dr.	
			To Cash paid for grain.....	$2 70
			— —	
	9	15	Mrs. Anna Tufts.....Dr.	
			To Cash paid tin man..... 1 31	
			Cash paid for quills..... 08	
				1 39
			— 37. —	
	10	15	N. K. Lombard.....Dr.	
			To 2 bunches asparagus..... 16	
			3 bunches asparagus on 15th..... 24	
				40
			— 37. —	
	18	15	Mrs. Anna Tufts.....Dr.	
			To Cash paid for oil..... 5 00	
			Cash paid for corn..... 5 11	
			Cash paid G. Gookin..... 50	
				11 61
			— 37. —	
	18	15	Mrs. Anna Tufts.....Cr.	
			By Cash received of J. Dodge..... 75	
				75
			— 37. —	
	20	15	Mrs. Anna Tufts.....Dr.	
			To Cash paid pew tax to May 1st..... 13 50	
			Cash paid for potatoes..... 3 00	
			Cash paid for matting..... 13	
				16 63
			— 37. —	
	20	14	N. K. Lombard.....Dr.	
			To 2 bunches asparagus..... 16	
			2 bunches asparagus, 30th..... 16	
				32
1833.		L. F.	— 38. —	
May	30	14	Mrs. A. Tufts.....Dr.	
			To Cash paid for shoes for Deborah..... 67	
			Cash paid for corn and potatoes..... 6 85	
				7 52
			— 38. —	
	30	14	N. K. Lombard.....Dr.	
			To sundry vegetables this date.....	40
			— —	
June	4	14	N. K. Lombard.....Dr.	
			To 2 bunches asparagus, 6¼..... 12½	
			2 bunches asparagus, 6th..... 12½	
				25
			— 38. —	
	8	14	N. K. Lombard.....Dr.	
			To 2 bunches asparagus..... 12½	
			2 bunches asparagus, 11..... 12½	
			George's board, 1 week..... 2 00	
				2 25
			— 39. —	
	15	15	Mrs. Anna Tufts.....Dr.	
			To Cash paid N. Fisk & Co. for corn..... 3 68	
			Cash paid postage from Matanzas..... 21	
			Cash paid N. Fisk & Co. for corn..... 9 20	
				13 09

		— 39. —	
June 15	15	Mrs. A. Tufts.....Cr.	
		By Cash received for peas..... 58	
		Cash received for flowers..... 80	
		Cash received for peas and cherries..... 25	
			$1 63
		— 39. —	
29	39	N. K. Lombard.....Dr.	
		To 1 pig for roasting, 17 lbs..... 2 50	
		8 qts. cherries..... 1 00	
			3 50
		— 39. —	
July 1	15	Mrs. Anna Tufts.....Dr.	
		To interest on $4,014 from April 1 to date, 3 mos. 60 21	
			60 21
		— —	
1	15	Mrs. Anna Tufts.....Cr.	
		By Cash received on account..... 7 00	
		Cash received S L. Cutter, for baker..... 75	
		Cash received E. Woodbury, balance..... 94	
			8 69
		— 39. —	
2	7	E. Woodbury.....Cr.	
		By Bill meat, A. Tufts..... 3 06	
		Cash..... 1 12	
			4 18
		— 39. —	
4	14	N. K. Lombard.....Dr.	
		To 8 qts. currants, 8..... 64	
		2 qts. currants, 6th..... 16	
		1 pig for roasting..... 2 50	
			3 30
1833.	F. L.	— 40. —	
July 8	26	Mrs. A. Tufts.....Cr.	
		By Cash received of G. Manson, pew rent.....	6 38
		— 40. —	
23	26	Mrs. A. Tufts.....Dr.	
		To Cash paid N. Fisk & Co., for corn.....	24 00
		— 40. —	
Aug. 7	26	Mrs. Anna Tufts.....Dr.	
		To Cash for meal..... 2 00	
		Cash for tolls..... 12	
			2 12
		— 40. —	
7	26	Mrs. Anna Tufts.....Cr.	
		By Cash received of J. Dodge.....	75
		— 41. —	
31	26	Mrs. Anna Tufts.....Dr.	
		To Cash paid for Bristol brick..... 10	
		Cash paid for allspice..... 20	
		Cash paid mending tin..... 08	
			80
		— 42. —	
27	14	N. K. Lombard.....Dr.	
		To ¼ of a pig, w'g 20 lbs, 9.....	2 50

Extracts—Continued.

			— 42. —		
Aug.	31	26	Mrs. A. Tufts .....Cr.		
			By Cash received of John Sargent.....180 00		
			Cash received money found..... 2 25		
					$182 25
			— 43. —		
Sept.	14	26	Mrs. A. Tufts .....Dr.		
			To Cash paid N. Fisk & Co. for corn..... 17 80		
			Cash paid for meat..... 67		
					18 47
			— 43. —		
	26	26	Mrs. Anna Tufts.....Cr.		
			By Cash received of L. Richardson, rent 1 50		
			Cash received of T. W. Short, turnips..... 25		
			Cash received of A. Cutter, "Francis board".. 40 00		
					41 75
			— 43. —		
Oct.	1	26	Mrs. A. Tufts .....Dr.		
			To Interest on $4,014, from July 1.....60 21		
			Deduct interest on $70, from Sept. 6, ...28 59 93		
			Cash paid Buck..... 50		
					60 43
			— 43. —		
	17	26	Mrs. Anna Tufts.....Dr.		
			To Cash paid for tan..... 13		
			Cash paid for glass..... 25		
			Cash paid for killing hog..... 50		
					88
1833.		F. L.	— 44. —		
Oct.	19	14	N. K. Lombard.....Dr.		
			To a hog, weighing 287½ lbs., at 8c.....		23 00
			— 44. —		
	30	26	Mrs. Anna Tufts.....Cr.		
			By Cash received of S. Butterfield, "seaweed"... 2 50		
			Cash received of Marion, "seaweed"..... 25		
					2 75
			— 44. —		
Nov.	1	26	Mrs. Anna Tufts.....Cr.		
			By Cash received of Sanger, "seaweed"..... 50		
			Cash received of J. Dodge, pew rent..... 75		
					1 25
			— 45. —		
	20	26	Mrs. Anna Tufts.....Dr.		
			To Cash paid N. Fisk & Co., for corn, 21½ bushels 11 61		
			Cash paid Coal, killing hog, &c..... 4 37		
					15 98
			— 45. —		
	25	26	Mrs. Anna Tufts.....Dr.		
			To Cash paid for cask lime 1 25		
			Cash paid Joel Lock..... 2 00		
					3 25
			— 45. —		
Dec.	2	26	Mrs. Anna Tufts.....Dr.		
			To Cash paid for fixing pump..... 50		
			Cash paid for coal..... 4 03		
			Cash paid for tolls..... 12		
					4 65

		— 46. —	
Dec. 4	26	Mrs. Anna Tufts.....Dr.	
		To Cash paid F. Manson, taxes..... 9 99	
		Cash paid S. Hancock, bill..... 2 62	
		Cash paid McDuffie 50	
			$13 11
		— 46. —	
13	26	Mrs. Anna Tufts.....Cr.	
		By Cash received of Whitney, bal..... 1 15	
		Cash received of Wheeler 85	
			2 00
		— 46. —	
26	26	Mrs. Anna Tufts.....Cr.	
		By Cash received of B. Smith, for hay.....	16 65
		— 47. —	
1834. Jan'y 2	26	Mrs. Anna Tufts.....Dr.	
		To Interest on $3,944, from Oct. 1 to date 59 16	
		Cash paid N. Fisk & Co., for corn 12 80	
		Cash paid for coal..... 4 00	
			75 96
		— 47. —	
18	1	Thos. W. Short .....Dr.	
		To Cash on acct.....	15 00
		— 48. —	
1834. Feb'y 6	F. L. 26	Mrs. Anna Tufts.....Dr.	
		To Charles Haynes' bill, sundries	496 20
		— 48. —	
6	26	Mrs. Anna Tufts.....Cr.	
		By Cash paid Charles Haynes, and sundries ret'd 70 44	
		Chas. Haynes, carting powder charged in bill. 2 00	
		Error in Haynes' acc't..... 2 64	
			75 08
		— 48. —	
6	27	Charles Haynes.....Cr.	
		By bill sundries for A. Tufts	496 20
		— 48. —	
6	27	Charles Haynes .....Dr.	
		To Cash and sundries on other books..... 70 44	
		My due bill for bal. acc't..... 31 62	
			102 06
		— 48. —	
6	27	Charles Haynes, n. a.....Dr.	
		To Error carting powder twice..... 2 00	
		Bag and rope returned, charged in bill..... 64	
			2 64
		— 48. —	
13	26	Mrs. A. Tufts.....Cr.	
		By 2 pair shirts..... 2 38	
		Cash of J. Dodge 75	
			3 13
		— 49. —	
March 26	1	Thomas W. Short.....Cr.	
		By Manure, 1831, 1833.....	60 00

Extracts—Continued.

			— 42. —		
Aug.	31	26	Mrs. A. Tufts.....Cr.		
			By Cash received of John Sargent.....180 00		
			Cash received money found..... 2 25		
					$182 25
			— 43. —		
Sept.	14	26	Mrs. A. Tufts.....Dr.		
			To Cash paid N. Fisk & Co. for corn..... 17 80		
			Cash paid for meat..... 67		
					18 47
			— 43. —		
	26	26	Mrs. Anna Tufts.....Cr.		
			By Cash received of L. Richardson, rent 1 50		
			Cash received of T. W. Short, turnips..... 25		
			Cash received of A. Cutter, "Francis board".. 40 00		
					41 75
			— 43. —		
Oct.	1	26	Mrs. A. Tufts.....Dr.		
			To Interest on $4,014, from July 1.....60 21		
			Deduct interest on $70, from Sept. 6, ...28 59 93		
			Cash paid Buck..... 50		
					60 43
			— 43. —		
	17	26	Mrs. Anna Tufts.....Dr.		
			To Cash paid for tan..... 13		
			Cash paid for glass..... 25		
			Cash paid for killing hog..... 50		
					88
1833.		F. L.	— 44. —		
Oct.	19	14	N. K. Lombard.....Dr.		
			To a hog, weighing 287½ lbs., at 8 c.....		23 00
			— 44. —		
	30	26	Mrs. Anna Tufts.....Cr.		
			By Cash received of S. Butterfield, "seaweed"... 2 50		
			Cash received of Marion, "seaweed"..... 25		
					2 75
			— 44. —		
Nov.	1	26	Mrs. Anna Tufts.....Cr.		
			By Cash received of Sanger, "seaweed"..... 50		
			Cash received of J. Dodge, pew rent..... 75		
					1 25
			— 45. —		
	20	26	Mrs. Anna Tufts.....Dr.		
			To Cash paid N. Fisk & Co., for corn, 21½ bushels 11 61		
			Cash paid Coal, killing hog, &c..... 4 37		
					15 98
			— 45. —		
	25	26	Mrs. Anna Tufts.....Dr.		
			To Cash paid for cask lime 1 25		
			Cash paid Joel Lock..... 2 00		
					3 25
			— 45. —		
Dec.	2	26	Mrs. Anna Tufts.....Dr.		
			To Cash paid for fixing pump..... 50		
			Cash paid for coal..... 4 03		
			Cash paid for tolls..... 12		
					4 65

1841.

Extracts—Continued.

		— 46. —		
Dec.	4	26	Mrs. Anna Tufts.....Dr.	
			To Cash paid F. Manson, taxes..... 9 99	
			Cash paid S. Hancock, bill..... 2 62	
			Cash paid McDuffie..... 50	
				$13 11
		— 46. —		
	13	26	Mrs. Anna Tufts.....Cr.	
			By Cash received of Whitney, bal..... 1 15	
			Cash received of Wheeler..... 85	
				2 00
		— 46. —		
	26	26	Mrs. Anna Tufts.....Cr.	
			By Cash received of B. Smith, for hay.....	16 65
1834.		— 47. —		
Jan'y	2	26	Mrs. Anna Tufts.....Dr.	
			To Interest on $3,944, from Oct. 1 to date..... 59 16	
			Cash paid N. Fisk & Co., for corn..... 12 80	
			Cash paid for coal..... 4 00	
				75 96
		— 47. —		
	18	1	Thos. W. Short.....Dr.	
			To Cash on acct.....	15 00
1834.		F. L. — 48. —		
Feb'y	6	26	Mrs. Anna Tufts.....Dr.	
			To Charles Haynes' bill, sundries.....	496 20
		— 48. —		
	6	26	Mrs. Anna Tufts.....Cr.	
			By Cash paid Charles Haynes, and sundries ret'd 70 44	
			Chas. Haynes, carting powder charged in bill. 2 00	
			Error in Haynes' acc't..... 2 64	
				75 08
		— 48. —		
	6	27	Charles Haynes.....Cr.	
			By bill sundries for A. Tufts.....	496 20
		— 48. —		
	6	27	Charles Haynes.....Dr.	
			To Cash and sundries on other books..... 70 44	
			My due bill for bal. acc't..... 31 62	
				102 06
		— 48. —		
	6	27	Charles Haynes, n. a.....Dr.	
			To Error carting powder twice..... 2 00	
			Bag and rope returned, charged in bill..... 64	
				2 64
		— 48. —		
	13	26	Mrs. A. Tufts.....Cr.	
			By 2 pair shirts..... 2 38	
			Cash of J. Dodge..... 75	
				3 13
		— 49. —		
March	26	1	Thomas W. Short.....Cr.	
			By Manure, 1831, 1833.....	60 00

Extracts—Continued.

		— 49. —	
March	26	– Thomas W. Short.....Dr.	
		To am't from other book, A. Tufts..... 14 91	
		Due bill to bal. acc't..... 6 19	
			$21 10
		— 49. —	
	26	26 Mrs. Anna Tufts.....Dr.	
		To T. Short's bills, manure, 1831, 1833.....	60 00
		— 49. —	
		26 Mrs. Anna Tufts.....Cr.	
		By Sundries charged T. Short, from book in settlement 14 91	
		Amount allowed by do. for diking..... 5 00	
		Cash received of C. Valentine, for straw 6 83	
			26 74
		— 49. —	
April	7	26 Mrs. Anna Tufts.....Cr.	
		By cash received for load hay sold B. Smith.....	16 84
		— 50. —	
1834		F. L.	
April	7	26 Mrs. Anna Tufts.....Dr.	
		To interest on $3,944, from Jan. 1st to April 1st.....	59 16
		— 50. —	
	25	26 Mrs. Anna Tufts.....Cr.	
		By Cash received of Mrs. Seaver.....	24 00
		— 50. —	
May	2	13 John McDuffie.....Dr.	
		To 6 apple trees, at 2s..... 2 00	
		2 cherry trees, 2s. 3d..... 75	
			2 75
		— 50. —	
	2	1 Thomas W. Short.....Dr.	
		To 3 apple trees, 2s.....	1 00
		— 50. —	
	10	26 Mrs. Anna Tufts.....Cr.	
		By Cash received of J. Dodge.....	75
		— 50. —	
	12	26 Mrs. Anna Tufts.....Dr.	
		To Cash paid for grain.....	1 51
		— 51. —	
	12	14 N. K. Lombard.....Dr.	
		To sundry vegetables from 12th to 23d.....	1 62
		— 51. —	
	12	26 Mrs. Anna Tufts.....Dr.	
		To Cash paid for Elbridge to buy books..... 2 00	
		Cash paid N. Fisk & Co., for grain..... 16 34	
			18 34
		— 51. —	
	12	14 N. K. Lombard.....Dr.	
		To sundry vegetables.....	70

Extracts—Continued.

			— 51. —	
June	6	26	Mrs. Anna Tufts.....Dr.	
			To Cash paid for potatoes..... 2 61	
			Cash paid for hay..... 2 73	
				$5 34
			— 51. —	
	9	14	N. Lombard.....Dr.	
			To 4 bunches asparagus..... 40	
			3 bunches asparagus, 12th..... 30	
				70
			— 51. —	
	17	26	Mrs. Anna Tufts.....Dr.	
			To Cash paid W. Thayer..... 1 00	
			Cash paid J. Childs' bill, blacksmithing..... 17 00	
			Cash paid on account cow..... 5 00	
				23 00
			— 52. —	
1834		F. L.		
July	3	26	Mrs. Anna Tufts.....Dr.	
			To interest on $3,944, from Sept. 1st to July 1st.....	59 16
			— 52. —	
Aug.	7	26	Mrs. A. Tufts.....Dr.	
			To Cash paid Nicolas Token, wages..... 10 50	
			Cash paid 12 lbs. butter..... 2 00	
			Cash paid W. Thayer..... 12 00	
				24 50
			— 53. —	
	21	26	Mrs. Anna Tufts.....Cr.	
			By Cash received of J. Dodge, pew rent.....	75
			— 53. —	
Sept.	16	26	Mrs. Anna Tufts.....Dr.	
			To Cash paid W. Thayer, bal..... 3 67	
			1 pot butter, 16¼ lbs., at 1s..... 2 71	
			Cash paid Artimus Cutter, $30 less $24..... 6 00	
				12 38
			— 53. —	
Oct'r	1	26	Mrs. Anna Tufts.....Dr.	
			To Interest on $3,944, from July 1st to 3 mos.... 59 16	
			Cash, kegs..... 2 50	
			Cash paid N. Childs' bal. acc't..... 2 00	
				63 66
			— 53. —	
	3	14	N. K. Lombard.....Dr.	
			To 1 dozen large pears.....	25
			— 54. —	
	6	26	Mrs. Anna Tufts.....Dr.	
			To Cash paid F. Coolidge, taxes on pews, 1833.. 30 00	
			Cash paid grain to Elbridge..... 2 00	
				32 00
			— 54. —	
	6	26	Mrs. Anna Tufts.....Cr.	
			By Cash received of R. Douglass, pew rent to date 18 00	
			Cash received of J. Forster, seaweed..... 2 00	
			Cash received of Denton, balance on hay..... 2 83	
				22 83

Extracts—Continued.

		— 54. —	
Oct'r 23	26	Mrs. Anna Tufts.....Dr.	
		To Cash for coal 5 00	
		Cash to pay A. Churchill..... 15 00	
		Cash for plough..... 7 00	
			$27 00
		— 55. —	
24	26	Mrs. Anna Tufts.....Cr.	
		By Cash on account	15 00
		— 55. —	
1834	F. L.		
Oct'r 24	–	Thomas W. Short.....Cr.	
		By Cash.....	1 00
		— 55. —	
Nov'r 1	26	Mrs. Anna Tufts.....Dr.	
		To Cash paid for soapstone..... 1 25	
		Cash powder sold J. Tufts..... 3 25	
			4 50
		— 55. —	
8	26	Mrs. Anna Tufts.....Dr.	
		To 1 keg butter, 59 lbs., at 18c..... 10 62	
		Cash paid Manson, taxes..... 10 32	
			20 94
		— 55. —	
8	26	Mrs. Anna Tufts.....Cr.	
		By Cash received of J. Dodge, rent seat..... 1 50	
		Cash received check R. C. Manners 11 00	
		Cash received check R. C. Manners 11 00	
		Work on road and Seat Magazine..... 18 00	
			41 50
		— 56. —	
Dec'r 6	26	Mrs. Anna Tufts.....Dr.	
		To Cash paid J. Mathews, 2 mos. work	22 00
		— 56. —	
17	26	Mrs. Anna Tufts.....Cr.	
		By Cash received of L. Peirce, for March hay.....	35 00
		— 56. —	
20	26	Mrs. Anna Tufts.....Dr.	
		To Cash paid for killing hogs.....	1 34
1835		— 56. —	
January 1	26	Mrs. Anna Tufts.....Dr.	
		To interest on $3,944, from Oct. 1st, 3 mos.....	59 16
		— 56. —	
1	26	Mrs. Anna Tufts.....Cr.	
		By board from April 1st, 1833, to January 1st, 1835,	
		91 weeks, at $3 .....273 00	
		Attendance upon magazine 100 00	
			373 00
		— 56. —	
1	26	Mrs. Anna Tufts.....Dr.	
		To Cash paid James Thwing's bill..... 62	
		Cash paid A. Cutter, on acc't note..... 20 00	
			20 62

Extracts—Continued.

		— 57. —	
Jan'y 17	26	Mrs. Anna Tufts.....Cr.	
		By Cash received of Stanley, Reed & Co , for filling canisters.....	$2 50
		— 57. —	
		Mrs. Anna Tufts.....Dr.	
		To Cash paid Sol. Hancock, bal.....	3 53
1835	F. D.	— 57. —	
Feb'y 9	26	Mrs. Anna Tufts.....Dr.	
		To 1 tub butter, 52 pounds, at 18c.....	6 36
		— 57. —	
9	26	Mrs. Anna Tufts.....Dr.	
		To cash paid half ton coal.....	4 25
		— 58. —	
March 3	26	Mrs. Anna Tufts.....Dr.	
		To Cash paid L. Daniels..... 10 12	
		To Cash paid half ton coal..... 4 25	
			14 37
		— 58. —	
3	26	Mrs. Anna Tufts.....Cr.	
		By Cash received of John Dodge..... 1 50	
		Cash received on account..... 11 00	
		1 pair shirts..... 1 00	
			13 50
		— 58. —	
7	26	Mrs. Anna Tufts.....Dr.	
		To Cash paid Cutter & Perkins, balance..... 2 00	
		Cash paid J. Childs, on account..... 15 00	
			17 00
		— 59. —	
24	26	Mrs. A. Tufts.....Dr.	
		To Cash paid for coal..... 4 50	
		Cash paid on account..... 4 00	
			8 50
		— 59. —	
April 11	26	Mrs. A. Tufts.....Dr.	
		To Cash paid N. Fisk & Co., for grain..... 8 84	
		Cash paid M. & Brooks, for grain..... 11 28	
		Interest on $3,944, from January 1..... 59 16	
		Cash received for 2 casks powder..... 6 50	
		Cash paid J. Childs, balance account..... 5 78	
			91 56
		— 60. —	
May 9	26	Mrs. Anna Tufts.....Cr.	
		By cash received of J. Dodge, rent to May 1..... 1 50	
		Cash received of A. Putnam..... 5 83	
			7 33
		— 60. —	
9	26	Mrs. Anna Tufts.....Dr.	
		To Cash paid for 12 bushels potatoes, 50c..... 6 00	
		Cash paid for grass seed..... 11 12	
		Cash paid for 12 bushels potatoes, 5s..... 7 00	
			24 12
25	–	— 61. —	
Paid A. T.	–	Peirce of West Cambridge.....Dr.	
		To hay on marsh, let to him this day.....	40 00

Extracts—Continued.

			— 61. —	
May	25	26	Mrs. Anna Tufts.....Dr.	
			To Cash paid for 10 bushels potatoes, 50c..... 5 00	
			Cash paid for 5¾ bushels potatoes, 55c..... 3 16	
			Cash paid, 2 casks plaster, 9s..... 3 00	
			———	$11 16
1835		F. L.	— 61. —	
June	6	38	Mrs. Anna Tufts.....Dr.	
			To Cash paid for potatoes 3 00	
			Cash paid for potatoes, 8th..... 4 00	
			Cash paid F. Coolidge, tax on pews..... 18 00	
			Cash paid A. Rice, for manure..... 15 00	
			Cash paid A. Brown, pot butter..... 3 00	
			Cash paid for 1 cask plaster..... 1 50	
			———	44 50
			— —	
	20	38	Mrs. Anna Tufts.....Cr.	
			By 1 pair shirts..... 1 50	
			1 pocket handkerchief..... 1 06	
			———	2 56
			— 62. —	
July	1	38	Mrs. Anna Tufts.....Dr.	
			To interest on $3,944, from April 1st.....	59 16
			— 62. —	
	28	38	Mrs. Anna Tufts.....Dr.	
			To 25 pounds sugar, at 10½..... 2 56	
			3 pounds S. tea, at 2s..... 1 00	
			Cash paid P. B. Hovey, bill..... 43	
			Cash paid C. Haynes, bill..... 223 24	
			———	228 23
			— 62. —	
	28	27	Charles Haynes.....Dr.	
			To 135 loads sand..... 8 04	
			1 tub butter, ret'd..... 6 93	
			1 cask powder..... 3 00	
			Bill against A. Stone..... 5 00	
			Cash..... 100 00	
			Over-charge on chips..... 1 00	
			———	124 02
			— 63. —	
	28	27	Charles Haynes.....Cr.	
			Bill, sundries..... 246 33	
			Due bill, February 3, 1834..... 31 62	
			Interest on due bill..... 2 84	
			———	280 79
			— 64. —	
Aug.	17	38	Mrs. Anna Tufts.....Dr.	
			To cash paid T. Short, for manure..... 25 00	
			Cash paid J. L. Jennison, es't..... 4 40	
			———	29 40
			— 63. —	
	22	10	J. L. Jennison.....Cr.	
			By Cash..... 5 80	
			Bill against A. Tufts..... 4 40	
			— 63. — ———	10 20
Sept'r	6	38	Mrs. Anna Tufts.....Dr.	
			To Cash paid J. Matthews, on account..... 2 00	
			Cash paid J. Matthews, on 13th..... 10 00	
			———	12 00

Extracts—Continued.

		— 63. —	
Sept'r 6	38	Mrs. Anna Tufts.....Cr.	
		By cash of John Dodge, pew rent..... 1 50	
		Cash of sch. for work..... 62	
			$2 12
1835	F. L.	— 64. —	
Sept'r 14	38	Mrs. A. Tufts.....Dr.	
		To Cash received of E. Willard..... 54 00	
		Cash received of D. & T. Bowman..... 75	
			54 75
		— 64. —	
Oct'r 1	38	Mrs. Anna Tufts.....Dr.	
		To Cash received for 1 cask powder to M. & B... 3 00	
		Interest on $3,944, from July 1st..... 59 16	
			62 16
		— 65. —	
Nov'r 3	38	Anna Tufts.....Cr.	
		By Cash of John Dodge..... 1 50	
		Cash for seaweed..... 50	
		Cash for 2 bushels turnips..... 50	
		Pocket handkerchief..... 83	
			3 33
		— 65. —	
26	38	Mrs. Anna Tufts.....Dr.	
		To Cash paid John Matthews for work..... 75 50	
		Cash received 1 qr. cask Dupont powder..... 5 25	
			80 75
		— 65. —	
Dec'r 5	38	Mrs. Anna Tufts.....Dr.	
		To Cash paid tax bill..... 13 29	
		Cash paid Whiting..... 1 00	
			14 29
		— 66. —	
31	38	Mrs. Anna Tufts.....Dr.	
		To Interest on $2,944, from October 1st..... 59 16	
		Interest on $633 33, balance due Jan. 1, 1835, to date..... 37 98	
		Cash paid for boat..... 10 00	
			107 14
		— 66. —	
31	38	Mrs. A. Tufts.....Cr.	
		By Board, from Jan. 1st to date, 52 weeks, at $3 156 00	
		Services on account magazine..... 100 00	
			256 00
1836		— 67. —	
January 2	38	Mrs. Anna Tufts.....Cr.	
		By Cash received of Charles Smith, on her account 2 00	
		Cash received of J. Trowbridge, seaweed 1 50	
			3 50
		— 67. —	
21	38	Mrs. Anna Tufts.....Dr.	
		To Cash paid J. Thwing, mending chaise..... 1 50	
		Cash paid D. L. Brown, bill sundries..... 3 78	
			5 28
		— 67. —	
23	38	Mrs. Anna Tufts.....Dr.	
		To ½ ton coal..... 3 67	
		½ ton coal..... 3 00	
			6 67

Extracts—Continued.

1836		F. L.	— 68. —	
March	1	38	Mrs. Anna Tufts.....Dr.	
			To Cash paid for coal.....	$4 26
			— 68. —	
	9	38	Mrs. A. Tufts.....Cr.	
			By Cash received of S. R. & Co., on her account.....	14 50
			— 68. —	
	14	38	Mrs. A. Tufts.....Dr.	
			To Cash paid taxes on 2 pews, for 1835.....	18 00
			— 68. —	
	14	38	Mrs. A. Tufts.....Cr.	
			By Cash received of J. Dodge, 1 qr. rent.....	1 50
			— 68. —	
April	1	38	Mrs. Anna Tufts.....Dr.	
			To Cash..... 4 00	
			Cash paid Kidder & Tarbell, for barley..... 5 69	
				9 69
			— 69. —	
	1	38	Mrs. Anna Tufts.....Dr.	
			To Interest on $3,944, from Jan. 1st to date..... 59 16	
			Cash paid for butter, 80 pounds, at 21c..... 16 80	
				75 96
			— 69. —	
May	2	11	H. N. Fisk.....Dr.	
			To 2 cherry and 3 pear trees, 50..... 2 50	
			3 apple trees..... 84	
				3 34
			— 69. —	
	2	38	Mrs. Anna Tufts.....Cr.	
			By Cash received of A. Putnam, for pew rent.....	14 00
			— 70. —	
	14	38	Mrs. A. Tufts.....Cr.	
			By cash received of J. Dodge, pew rent to May 1.....	1 50
			— 70. —	
	24	38	Mrs. A. Tufts.....Dr.	
			To Cash paid J. Childs' bill.....	20 00
			— —	
June	10	38	Mrs. Anna Tufts.....Dr.	
			To Cash paid for bean poles..... 1 00	
			Cash paid Davis & Co..... 6 00	
				7 00
			— 71. —	
July	1	38	Mrs. Anna Tufts.....Dr.	
			To Interest on $3,944, from April 1st..... 59 16	
			Cash paid F. Coolidge..... 1 00	
				60 16
1836		F. L.	— 71. —	
July	6	38	Mrs. Anna Tufts.....Dr.	
			To 2 qr. casks L. & B. powder sold.....	6 80

		— 71. —		
July 8	38	Mrs. A. Tufts.....Dr.		
		T 1 barrel flour, of Wood & Livermore.....	8 00	
		Cash paid for grain.....	4 12	
		Cash paid for pitchfork.....	50	
				$12 62
		— 72. —		
August 8	38	Mrs. A. Tufts.....Dr.		
		To 1 salmon, 7 pounds, 20c.....	1 40	
		Cash paid Barker, note.....	5 25	
		3 qr. casks powder, "sold".....	9 00	
				15 65
		— 73. —		
Oct'r 1	38	Mrs. Anna Tufts.....Dr.		
		To Interest on $3,944, from July 1st to date.....	59 16	
		Cash received, 2 qr. casks powder "sold".....	6 00	
				65 16
		— 73. —		
1	38	Mrs. A. Tufts.....Cr.		
		By Cash received of Stanley, Reed & Co., on her account.....	2 50	
		1 pair lambs-wool socks.....	58	
				3 08
		— 74. —		
Nov'r 23	38	Mrs. Anna Tufts.....Dr.		
		To 1 tub butter, of E. Wright, jr.....	20 92	
		Cash of E. Wright, November 5th.....	50 00	
		Cash paid Jane Hall, for dying silk.....	2 38	
		Cash at Woburn.....	15 00	
		Cash paid tax bill.....	28 14	
				116 44
		— 74. —		
23	38	Mrs. Anna Tufts.....Cr.		
		By Check from J. K. Frothingham.....	34 33	
		3 pair of shirts, 5 50; 1 pair drawers, 1 75....	7 25	
		Cash received of Mosely for potatoes.....	15 00	
				56 58
		— 75. —		
Dec'r 31	38	Mrs. Anna Tufts.....Dr.		
		To Interest on $3,944, from Oct. 1st to date.....	59 16	
		Interest on $1,242 84, balance due January 1st, 1836, one year.....	74 57	
		Cash paid for 3 tons coal.....	36 00	
		Charles Haynes' bill, sundries.....	96 85	
		Cash paid J. Childs' bill.....	14 86	
				281 44
		— 75. —		
31	38	Mrs. A. Tufts.....Cr.		
		By Board, from Jan. 1st to date, 52 weeks, $3...	156 00	
		Services attending magazine 1 year.....	100 00	
				256 00
		— 75. —		
1836	F. L.			
Dec'r 31	22	Charles Haynes & Co.....Dr.		
		To 220 loads sand, 21 98; rice returned, 1 10.....	23 08	
		Cash.....	87	
				23 95
		— 75. —		
22	27	C. Haynes & Co.....Cr.		
		By bill, sundries.....		97 95

Extracts—Continued.

	F. L.	Cambridge, January 1, 1837.		
		— 76. —		
	46	Sundries.....Dr. to Stock account.		
	1	John Edwards, balance account due.....	3 75	
	5	Charles Smith, balance account due.....	5 38	
	9	Addison Tufts, balance account due.....	4 00	
	10	Edward S. Spear, balance account due.....	3 18	
	11	H. N. Fisk, balance account due.....	7 34	
	11	J. Baker, balance account due.....	7 88	
	12	Peter Tufts, balance account due.....	98 89	
	13	John McDuffee, balance account due.....	2 75	
	18	Samuel L. Cutter, balance account due.....	56 00	
	22	N. E. Glass Co., balance account due.....	21 62	
	24	Shattuck, balance account due.....	28 13	
	25	Henry Sheaf, balance account due.....	117 80	
	29	Jon'n Livermore, balance account due.....	6 25	
	32	Isaac K. Wise, balance account due.....	12 50	
	34	Mason & Brooks, balance account due.....	24 00	
	40	E. Willard, balance account due.....	30 00	
	41	Wood & Livermore, balance account due.....	4 00	
	43	H. G. Ware, balance account due.....	24 25	
	38	Mrs. A. Tufts, balance account due.....	1,596 51	
	44	Notes r'd, Sam'l L. Cutter's note..... 200 00		
		" " A. G. Baxter, note..... 27 65		
		" " Anna Tufts, note..... 100 00		
		" " J. P. Atkinson, note..... 10 00		
		" " Peter Tufts 302 00		
		" " A. Cutter..... 8 00		
		" " Cutter & Cummings..... 46 83		
		" " Thomas Park..... 58 00		
		" " Henry Sheaf..... 119 00		
		" " S. B. Morse, jr..... 265 00		
		" " Anna Tufts..... 15 00		
		" " E. Wright, jr..... 270 75		
		" " C. & Bowman..... 250 00		
			1,672 23	
	47	Sales powder, amount on hand.....	446 50	
	48	Cash on hand.....	10 00	
	50	Cambridge estate, amount paid Ammi Cutter..	3,944 00	
				$8,126 96
1837		— 77. —		
Jan'y 1	46	Stock Account.....To Sundries.		
	45	Notes payable, note in favor of Anna Tufts.....	100 00	
		— 77. —		
20	38	Sundries.....Dr. to Cash.		
		Mrs. A. Tufts, James Thwing's bill.....	1 41	
		Mrs. A. Tufts, D. L. Brown, bill.....	1 47	
				2 88
		— 77. —		
30	38	Sundries.....Dr. to Cash.		
		Mrs. A. Tufts, 2 gallons molasses.....	90	
		1 nest tubs.....	3 00	
				3 90
		— 78. —		
	38	Sundries.....Dr. to Cash.		
		Mrs. A Tufts, on account board, Gorham.....	20 00	

		— 79. —		
	38	Expense Account.....Dr. to Sundries.		
		Mrs. A. Tufts, 2 pair socks.....	1 50	
		1 yard linen.....	1 12	
		1 pair drawers.....	2 25	
				$4 87
		— 79. —		
March 27	38	Sundries.....Dr. to H. N. Fisk.		
		Mrs. A. Tufts, his bill sundries.....	7 00	
		— 79. —		
April 1	38	Mrs. A. Tufts.....Dr. to Sundries.		
		To Mason & Brook's grain bill.....	104 00	
		Interest account, interest on $3,944, to date, 1 year.....	59 16	
				163 16
		— 80. —		
26	38	Charles Smith.....Dr. to Sundries.		
		To filling 600 canisters.....		3 00
1837.	L. F.	— 81. —		
May 12	38	Mrs. A. Tufts.....Dr. to sales Powder.		
		1 cask L. & B. powder sold.....	3 00	
		1 cask Lafayette powder sold.....	3 00	
				6 00
		— 81. —		
July 1	38	Anna Tufts..... Dr. to Interest account.		
		Interest on $3,944, from April 1st.....		59 16
		— 82. —		
Aug. 10	38	Cash.....Dr. to Sundries.		
		Mrs. A. Tufts, board masons	16 00	
		Horatio, work.....	25 50	
				41 50
		— 82. —		
19	38	Sundries.....Dr. to sales Powder.		
		Anna Tufts, 1 qr. cask Dupont powder sold J. Tyler....		5 25
		— —		
Sept. 12	33	Sundries.....Dr. to sales Powder.		
		Mrs. A. Tufts, 1 qr. cask L. & B. sold Kimball.....		3 00
		— 83. —		
Oct. 1	38	Anna Tufts..... Dr. to Interest account.		
		Interest on $3,944, from July 1st.....		59 16
		— 83. —		
12	38	Anna Tufts.....Dr. to sales Powder.		
		2 qr. casks American powder, at 3.....	6 00	
		1 qr. cask Dupont powder, to J. Tyler.....	5 25	
				11 25
		— 83. —		
23	38	Sundries.....Dr. to sales Powder.		
		Mrs. Anna Tufts, 4 qr. casks American powder sold.....		12 00
		— 84. —		
Nov. 15	39	Sundries.....Dr. to sales Powder.		
		Mrs. Anna Tufts, 7 qr. casks "Am." powder to Downing		21 00

Extracts—Continued.

		— 84. —		
Dec'r 30	39	Sundries.....Dr. to sales Powder.		
		Mrs. Anna Tufts, 2 qr. casks American powder..	6 00	
		1 qr. cask Lafayette powder...	3 00	
				$9 00
		— 84. —		
31	39	Mrs. A. Tufts.....Dr. to Sundries.		
		To interest account, int. on $3,944, to date.....	59 16	
		Cash paid Mason account, Ann portrait.....	10 00	
		Cash paid Mason & Luke, bill coal.....	13 00	
				82 16
1837.	F. L.	— 85. —		
Dec. 31	39	Sundries.....Dr. to Cash.		
		Mrs. A. Tufts, paid tax bill.....	23 67	
		Mrs. A. Tufts, paid 2 tons coal.....	15 50	
				19 17
		— 85. —		
31	39	Expense.....Dr. to Sundries.		
		To Mrs. Anna Tufts, board to date, 52 weeks...	156 00	
		Mrs Anna Tufts, services to magazine.....	100 00	
				256 00
		— 85. —		
31	39	Sundries.....Dr. to Mrs. A. Tufts.		
		Notes receivable, note dated January 1st, 1838, on demand.....	500 00	
		Cash to balance account.....	1,289 23	1,789 23
		— 85. —		
31	48	Cash.....Dr. to Sundries.		
	44	Notes receivable, A. Tufts' 2 notes.....	115 00	
	56	Interest account on do. do.....	49 56	
	44	N. receivable, C. & Cummings' note.....	46 83	
				211 39
1838.		— 86. —		
Feb'y 10	39	Sundries.....Dr. to sales Powder.		
		Mrs. Anna Tufts, to 2 quarter casks sold Morel, January 13th.....	5 75	
				5 75
		— 87. —		
March 1	39	Sundries.....Dr. to Cash.		
		Mrs. A. Tufts to 1 tub butter, 51½ lbs., at 20.....	10 30	
				10 30
		— 87. —		
April 1	39	Anna Tufts.....Dr. to Interest account.		
		Interest on $3,944, from January 1st to date.....		59 16
		— 88. —		
May 10	39	Cash.....Dr. to Sundries.		
		To town Cambridge, received for powder.....	46 50	
		Mrs. A. Tufts, received of Town for gravel.....	15 75	
		Received of Ames for trees.....	3 50	
				19 25
		— 88. —		
30	39	Sundries.....Dr. to Cash.		
		Mrs. A Tufts, on account hay.....	2 46	
		On account J. Thwing.....	75	
				3 21

			— 88. —	
June	15	39	Sundries.....Dr. to Cash.	
			Mrs. A. Tufts, paid J. Childs' bill..... 6 00	
			Paid Mason & Brook, bill..... 63 93	
			Paid 7 barrels potatoes..... 5 00	
			6 barrels potatoes..... 6 00	
				$80 93
1838.		F. L.	— 89. —	
July	1	39	Mrs. A. Tufts .....Dr. to Sundries.	
			To Interest acc't on $3,944, 3 mos..... 59 16	
			Cash paid P. B. Hovey & Co.'s bill 10 27	
			Sales powder, 1 qr. cask Lafayette powder.... 2 75	
				72 81
			— 89. —	
	21	39	Sundries .....Dr. to Cash.	
			Mrs. A. Tufts, S. D. Brown, bill posts.....	2 25
			— 90. —	
Aug.	1	39	Sundries .....Dr. to Cash.	
			Mrs. Anna Tufts, taxes on pew in U. meeting-house, to J. Pear..... 30 00	
			Anna Tufts to J. Fillebrown, wages..... 14 00	
				44 00
			— 90. —	
	8	39	Sundries .....Dr. to Cash.	
			Mrs. Anna Tufts, 50 lbs. white lead..... 4 50	
			H. Burroughs, wages..... 1 50	
			acc't K. & Davenport, bill..... 15 00	
			2 salmon, 10½ lbs 2 00	
			M. & Luke, 1 ton coal..... 8 75	
			acc't cows..... 1 00	
				32 75
			— 90. —	
Sept.	14	39	Sundries .....Dr. to Cash.	
			Mrs. A. Tufts, on acc't 5 00	
			N. Bent, bill lumber 12 83	
				17 83
			— 91. —	
	20	39	Sundries.....Dr. to Cash.	
			Mrs. A. Tufts, paid Isaac Walden, wages.....	12 00
			— 91. —	
Oct.	1	39	Sundries .....Dr. to Interest.	
			Mrs. A. Tufts, Interest on $3,944, July 1st.....	59 16
			— 91. —	
	16	39	Sundries .....Dr. to Cash.	
			Mrs. A. Tufts, on acc't..... 6 00	
			1 qt. fish 4 75	
				10 75
			— 92. —	
Nov.	14	39	Sundries .....Dr. to Cash.	
			Mrs. Anna Tufts, cash rec'd of Morel for powder.....	12 50
			— 92. —	
	30	39	Sundries .....Dr. to Cash.	
			Mrs. Anna Tufts, 20 bush. potatoes, 45c..... 9 00	
			rec'd of J. Baker..... 10 00	
				19 00

Extracts—Continued.

			— 93. —	
Dec.	15	39	Sundries .....Dr. to Cash.	
			Mrs. A. Tufts, received for 5 qr. casks Lafayette powder..... 12 50	
			S. Smith's bill..... 40 00	
				$52 50
1838.		F. L.	— 93. —	
Dec.	26	39	Mrs. A. Tufts .....Dr. to Sundries.	
			To sales powder, 3 qr. casks Lafayette powder... 7 50	
			Cash, Daniel P. Wise, bill 7 96	
				15 46
			— 93. —	
	31	39	Sundries .....Dr. to Cash.	
			Mrs. Anna Tufts, 1 bbl. flour..... 9 25	
			acc't pew tax..... 5 00	
			taxes, 1838..... 24 88	
			G. H. Thwing's bill..... 14 11	
				53 34
			— 93. —	
	31	39	Mrs. A. Tufts .....Dr. to Sundries.	
		34	To Mason & Brooks, bill grain 49 92	
		54	Charles Haynes & Co., bill sundries.....115 04	
		56	Interest acc't on $3,944, from Oct..... 59 16	
				224 12
			— 94. —	
	31	39	Expense.....Dr. to Sundries.	
			Mrs. Anna Tufts, board to date, 52 weeks, at $3..156 00	
			Anna Tufts, services acc't magazine to date.150 00	
				306 00
			— 94. —	
	31	39	Cash .....Dr. to Anna Tufts.	
			6 bbls. apples sold Jones, at $2.....	12 00
			— 96. —	
1839.				
Jan'y	25	39	Anna Tufts.....Dr. to sales Powder.	
			1 qr. cask L. & B. powder sold..... 2 75	
			1 qr. cask American powder, sold..... 2 4	
				5 50
			— 96. —	
Feb.	21	39	Sundries.....Dr. to sales Powder.	
			Mrs. Anna Tufts, 1 qr. cask Lafayette powder sold.....	2 50
			— 97. —	
Mar.	25	39	Anna Tufts .....Dr. to Sundries.	
			To interest acc't on $3,944 from Jan..... 59 16	
			Cash, G. S. Adams' bill..... 14 00	
				73 16
			— 97. —	
April	15	39	Sundries.....Dr. to sales Powder.	
			Mrs. Anna Tufts, 1 qr. cask L. & B. powder sold.....	2 75
			— —	
May	1	39	Sundries .....Dr. to sales Powder.	
			Mrs. Anna Tufts, 1 qr. cask Lafayette Twombly	2 50
			— 98. —	
	14	39	Cash .....Dr. to Sundries.	
			To Mrs. Anna Tufts, received of S. Smith	5 33

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Extracts—Continued.

1839.		F. L.		
May	14	39	— 98. —	
			Sundries .....Dr. to Cash.	
			Mrs. Anna Tufts, paid E. T. Hastings.....	$7 00
			— 98. —	
	23		Cash .....Dr. to Sundries.	
			Mrs. Anna Tufts, received of Mr. Howlet, rent pew.....	3 00
			— —	
July	1	39	Anna Tufts .....Dr. to Interest Acc't.	
			On $3,944, to date.....	59 16
			— 100. —	
	25	39	Mrs. Anna Tufts .....Dr. to Cash.	
			On acc't, 5, 10..... 15 00	
			2 M shingles, 3..... 6 00	
			4 M shingles, 3½ 14 00–20 00	
			1 salmon, 6 lbs., 23 c..... 1 38	
			On acc't, 5, 5 ..... 10 00	
			Freight, &c., on corn 14 74	
				61 12
			— 100. —	
Aug.	3	39	Sundries .....Dr. to Cash.	
			Mrs. A. Tufts, A. Johnson, bal. acc't.....	12 50
			— 101. —	
Sept.	27	39	Cash .....Dr. to Sundries.	
			Mrs. Anna Tufts, received of J. Gould, pew rent.....	3 00
			— 101. —	
Oct.	1	39	Anna Tufts.....Dr. to Sundries.	
		56	To Interest acc't on $3,944, 1 qr. rent..... 59 16	
		64	Cash on acc't 10 00	
			Cash on acc't pew tax..... 6 00	
				75 16
			— 101. —	
	5	39	Sundries .....Dr. to Cash.	
			Mrs. A. Tufts, B. & Bowman, bal. bill	8 53
			— 102. —	
	18	39	Sundries .....Dr. to sales Powder.	
			Mrs. Anna Tufts, 1 qr. cask Dupont, sold J. Tyler.....	5 25
			— 102. —	
Nov.	16	39	Mrs. Anna Tufts.....Dr. to Cash.	
			2 cords wood. dl'd to Reynolds, 6¾	10 13
			— 102. —	
Dec.	28	39	Sundries .....Dr. to Cash.	
			Mrs. Anna Tufts, G. H. Thwing's bill.....	90
			— 103. —	
1839		F. L.		
Dec.	31	39	Anna Tufts .....Dr. to Interest Acc't.	
			On $3,944, from Oct. 1, rent..... 59 16	
			On $449.84, bal. due Jan. 1, 1839, to date 26 99	
				86 15

Extracts—Continued.

			— 103. —	
Dec.	31	39	Expense.....Dr. to Sundries.	
			To Anna Tufts, board 52 weeks, at $3.....156 00	
			acc't magazine.....150 00	
				$306 00
			— 104. —	
1840				
Feb.	21	39	Sundries.....Dr. to Cash.	
			Mrs. Anna Tufts, Tax bill, 1839..... 26 99	
			Insurance..... 6 85	
			On acc't Mr. Woodward..... 25 00	
				58 84
			— 104. —	
March	10	–	Cash.....Dr. to Mrs. A. Tufts.	
			J. Burrage, gravel..... 17 40	
			A. Rice, turnips..... 8 20	
				25 60
March	20	78	Sundries.....Dr. to Cash.	
			Mrs. Anna Tufts, on acc't..... 2 00	
			12½ lbs. fish..... 1 00	
			½ bbl. flour..... 3 25	
			Cash on acc't..... 10 00	
				16 25
			— 104. —	
April	1	78	Anna Tufts.....Dr. to Sundries.	
		56	To Interest acc't on $3,944, 3 mos. rent..... 59 16	
		65	Cash 1 cask Dpt. powder..... 5 50	
			Cash acc't pew tax..... 6 00	
			Cash acc't Smith..... 8 00	
				78 66
			— 104. —	
	28	78	Cash.....Dr. to Mrs. A. Tufts.	
			Rec'd of C. M. Lovett.....	77 00
			— 104. —	
May	10	78	Cash.....Dr. to Anna Tufts.	
			Gravel, T. of C.....	10 65
			— 104. —	
	10	78	Mrs. Anna Tufts.....Dr. to Cash.	
			Paid for trees..... 6 00	
			Paid for grass seed..... 6 42	
				12 42
			— 105. —	
	20	78	Sundries.....Dr. to Cash.	
			Mrs. Anna Tufts, Oats..... 4 43	
			Potatoes..... 4 80	
				9 23
			— 105. —	
June	1	78	Sundries.....Dr. to Cash.	
			Mrs. Anna Tufts, Cash board, S. B.....	4 00
			— 105. —	
	27	78	Sundries.....Dr. to Cash.	
			Mrs. Anna Tufts, Paid Lewis, pound keeper.... 3 08	
			Paid Hatch, "wages"..... 30 00	
				33 08

1840	F. L.			
July 1	78	— 106. —		
		Anna Tufts.....Dr. to Sundries.		
		To Interest acc't on $3,944, 3 mos. rent.....	59 16	
		Cash, 4 bushels corn, 54	2 16	
		Tho's Griffin, wages	15 50	
				$76 82
		— 106. —		
22	78	Sundries .....Dr. to Cash.		
		Mrs. Anna Tufts, Paid N. Davis, wages	15 00	
		Paid Morse, wages.....	3 75	
				18 75
		— 108. —		
Sept'r 28	78	Sundries .....Dr. to Cash.		
		Mrs. Anna Tufts, paid N. Fisk.....		80 00
		— 109. —		
Oct'r 1	78	Anna Tufts.....Dr. to Sundries.		
	56	To Interest on $3,944, 3 mos. rent.....	59 16	
	65	Cash, lot chickens.....	9 00	
				68 16
		— 109. —		
12	78	Sundries.....Dr. to Notes Payable.		
		Mrs. Anna Tufts, my note to J. Burrage & Co.,		
		Oct. 12th; payable in 1 year with int'st.....		65 00
		— 109. —		
22	78	Sundries.....Dr. to Notes Payable.		
		Mrs. Anna Tufts, my note in favor of Pat. O'Bryan		
		Oct. 19th, on demand, with int'st.....		78 95
		— 111. —		
Dec. 8	78	Sundries .....Dr. to Cash.		
		Mrs. Anna Tufts, Paid Pat. O'Bryan.....	7 00	
		Paid P. B. Hovey & Co. bill...	3 69	
		Yourself	16 00	
				26 69
		— 111. —		
21	78	Sundries .....Dr. to Cash.		
		Mrs. Anna Tufts, paid Pat. O'Bryan		8 00
		— 112. —		
31	78	Anna Tufts .....Dr. to Sundries.		
	56	To Interest on $3,944, 3 mos. rent.....	59 16	
	65	Cash paid C. Haynes & Co. bill	33 16	
		Cash paid Pat. O'Bryan.....	5 00	
		Cash paid G. H. Thwing's bill	13 14	
		Cash paid 1 gallon oil.....	1 25	
		Cash paid A. W. Bruce, tax bill	26 33	
				138 04
		— 112. —		
31	78	Expense .....Dr. to Cash.		
		Mrs. Anna Tufts, board 52 weeks, at $3 .....156 00		
		acc't magazine 150 00		
				306 00
1840	F. L.	— 112. —		
Dec. 31	78	Mrs. A. Tufts.....Dr. to Sundries.		
	56	To Interest acc't on $544.82, bal. due Jan. 1, 1840	32 68	
	65	Cash D. P. Wise, bill.....	55 56	
		Cash 1 bbl. flour.....	5 50	
		Cash Mason & Brooks, bill.....	3 00	
				96 74

Extracts—Continued.

1841			— 113. —	
Jan'y	30	78	Sundries .....Dr. to Cash.	
			Mrs. A. Tufts, paid Deborah..... 8 50	
			paid Patrick..... 3 00	
			paid T. W. Short, bill bal..... 8 25	
				$19 75
			— 113. —	
Feb.	8	78	Sundries .....Dr. to Cash.	
			Mrs. Anna Tufts, paid Deborah	1 00
			— 113. —	
	24	78	Cash .....Dr. to Anna Tufts.	
			Received of Deborah.....	50 00
			— 114. —	
Mar.	6	78	Sundries.....Dr. to Cash.	
			Mrs. Anna Tufts, 1 bbl. flour.....	4 75
			— 114. —	
	31	78	Sundries.....Dr. to Cash.	
			Mrs. Anna Tufts, paid Fairfield & Lincoln..... 50 00	
			paid 1 bale hay 3 84	
			paid 4 bus. oats 1 50	
			paid Pat. O'Bryan..... 44 00	
				99 34
			— 114. —	
May	19	78	Sundries .....Dr. to Cash.	
			Mrs. A. Tufts, 1 bale hay 2 40	
			T. Short, veal..... 1 53	
			Cash paid Deborah 3 00	
				6 93
			— 115. —	
	28	78	Sundries .....Dr. to Cash.	
			Mrs. Anna Tufts, paid for potatoes..... 5 00	
			paid Deborah 10 00	
				15 00
			— 115. —	
July	29	78	Mrs. A. Tufts .....Dr. to Sundries.	
			To sale powder, 1 qr. cask Dpt. powder, to J. T.. 5 50	
			Cash, P. B. Hovey & Co. bill..... 6 41	
			1 box charcoal..... 1 50	
				13 41
			— 116. —	
Sept.	10	78	Cash .....Dr. to Anna Tufts.	
			Received for labor, &c., on M. road 24 00	
			Received for gravel of St. Clair..... 28 50	
				52 50
			— 116. —	
1841		F. L.		
Sept'r	17	78	Mrs. A. Tufts.....Dr. to Sundries.	
		45	To notes payable, my note to John Matthews dated September 10th, 1 year, to take up his note 125 00	
		84	Cash paid N. Fisk..... 6 00	
				131 00
			— 117. —	
Oct'r	16	78	Mrs. Anna Tufts.....Dr. to Cash.	
			Paid Pat. O'Bryan, acc't wages	30 00

		— 117. —	
Nov'r 10	78	Sundries.....Dr. to Cash.	
		Mrs. A. Tufts, tax bill for 1834.....	$41 31
		— 118. —	
Dec'r 31	78	Sundries.....Dr. to Cash.	
		Mrs. Anna Tufts, paid Patrick..... 5 00	
		paid Gavell & Co..... 16 56	
			21 56
		— 118. —	
31	78	Mrs. A. Tufts.....Dr. to Sundries.	
		To Charles Haynes, bill sundries 88 78	
		M. Brook, bill sundries..... 96 74	
		G. H. Thwing, bill sundries..... 29 63	
	46	Stock acc't am't dividend P. Tufts, jr., estate,	
		due Aug. 12th, 1828.....225 55	
		Interest on above to date.....204 48	
		on $985.20, bal. due Jan. 1st... 59 10	
		on $3,944, Jan. 1st (being rent).236 64	
		on note $500, dated Jan. 1st, 1838 120 00	
		——620 22	
		Notes received, note dated Jan. 1, 1838 .....500 00	
			1,590 92
		— 118. —	
31	78	Expense Acc't.....Dr. to A. Tufts.	
		To board to date 416 00	
		acc't magazine.....150 00	
			566 00
		— 119. —	
Mar. 30	78	Anna Tufts.....Dr. to Sundries.	
		To Cash paid Pat. O'Bryan, on acc't wages..... 37 00	
		Notes payable, my note in favor Pat. O'Bryan,	
		bal. wages, on demand.....100 00	
			137 00
		— 120. —	
1842			
June 22	50	Sundries.....Dr. to Cash.	
		Cambridge estate, 27 posts 2 70	
		6 M. shingles 9 00	
		G. A. Gale & Co., bill..... 26 30	
		William's bill..... 6 93	
		H. & Markam's bill..... 8 03	
		R. Reaves' bill..... 16 36	
			69 37
		— 120. —	
22	50	Cambridge Estate .....Dr. to Sundries.	
		To Joel Knight, 1,472 feet rail stuff 22 08	
		2 M pickets, $14 ..... 14 00	
			36 08
	F. L.	— 120. —	
1842			
July 4	89	Sundries .....Dr. to Gravel Account.	
	54	C. Haynes, 111 loads gravel, cart by Stone..... 16 65	
		75 loads gravel, St. Clair 11 25	
		84 loads gravel, Buchy..... 12 60	
		40 loads gravel, Jennings..... 6 00	
	87	J. M. St. Clair, 303 loads gravel, June 27..... 45 45	
			91 95
		— 121. —	
Aug. 1	50	Cambridge Estate.....Dr. to Sundries.	
	54	To C. Haynes, &c..... 17 15	
	90	G. A. Gale & Co., lumber and bill..... 98 40	
	87	J. M. St. Clair, carting stone and lumber..... 11 50	
			127 05

Extracts—Continued.

1841			— 113. —	
Jan'y	30	78	Sundries .....Dr. to Cash.	
			Mrs. A. Tufts, paid Deborah..... 8 50	
			paid Patrick..... 3 00	
			paid T. W. Short, bill bal..... 8 25	
				$19 75
			— 113. —	
Feb.	8	78	Sundries .....Dr. to Cash.	
			Mrs. Anna Tufts, paid Deborah	1 00
			— 113. —	
	24	78	Cash .....Dr. to Anna Tufts.	
			Received of Deborah.....	50 00
			— 114. —	
Mar.	6	78	Sundries.....Dr. to Cash.	
			Mrs. Anna Tufts, 1 bbl. flour.....	4 75
			— 114. —	
	31	78	Sundries.....Dr. to Cash.	
			Mrs. Anna Tufts, paid Fairfield & Lincoln..... 50 00	
			paid 1 bale hay 3 84	
			paid 4 bus. oats 1 50	
			paid Pat. O'Bryan..... 44 00	
				99 34
			— 114. —	
May	19	78	Sundries .....Dr. to Cash.	
			Mrs. A. Tufts, 1 bale hay 2 40	
			T. Short, veal..... 1 53	
			Cash paid Deborah 3 00	
				6 93
			— 115. —	
	28	78	Sundries .....Dr. to Cash.	
			Mrs. Anna Tufts, paid for potatoes..... 5 00	
			paid Deborah 10 00	
				15 00
			— 115. —	
July	29	78	Mrs. A. Tufts .....Dr. to Sundries.	
			To sale powder, 1 qr. cask Dpt. powder, to J. T.. 5 50	
			Cash, P. B. Hovey & Co. bill..... 6 41	
			1 box charcoal..... 1 50	
				13 41
			— 116. —	
Sept.	10	78	Cash .....Dr. to Anna Tufts.	
			Received for labor, &c., on M. road 24 00	
			Received for gravel of St. Clair..... 28 50	
				52 50
			— 116. —	
1841		F. L.		
Sept'r	17	78	Mrs. A. Tufts.....Dr. to Sundries.	
		45	To notes payable, my note to John Matthews	
			dated September 10th, 1 year, to take up his	
			note 125 00	
		84	Cash paid N. Fisk..... 6 00	
				131 00
			— 117. —	
Oct'r	16	78	Mrs. Anna Tufts.....Dr. to Cash.	
			Paid Pat. O'Bryan, acc't wages	30 00

		— 117. —		
Nov'r 10	78	Sundries.....Dr. to Cash.		
		Mrs. A. Tufts, tax bill for 1834.....		$41 31
		— 118. —		
Dec'r 31	78	Sundries.....Dr. to Cash.		
		Mrs. Anna Tufts, paid Patrick.....	5 00	
		paid Gavell & Co.....	16 56	
				21 56
		— 118. —		
31	78	Mrs. A. Tufts.....Dr. to Sundries.		
		To Charles Haynes, bill sundries	88 78	
		M. Brook, bill sundries.....	96 74	
		G. H. Thwing, bill sundries.....	29 63	
	46	Stock acc't am't dividend P. Tufts, jr., estate, due Aug. 12th, 1828.....225 55		
		Interest on above to date.....204 48		
		on $985.20, bal. due Jan. 1st... 59 10		
		on $3,944, Jan. 1st (being rent).236 64		
		on note $500, dated Jan. 1st, 1838 120 00		
			620 22	
		Notes received, note dated Jan. 1, 1838 .....500 00		
				1,590 92
		— 118. —		
31	78	Expense Acc't .....Dr. to A. Tufts.		
		To board to date 416 00		
		acc't magazine.....150 00		
		— 119. —		566 00
Mar. 30	78	Anna Tufts.....Dr. to Sundries.		
		To Cash paid Pat. O'Bryan, on acc't wages.....	37 00	
		Notes payable, my note in favor Pat. O'Bryan, bal. wages, on demand.....100 00		
				137 00
1842		— 120. —		
June 22	50	Sundries.....Dr. to Cash.		
		Cambridge estate, 27 posts	2 70	
		6 M. shingles	9 00	
		G. A. Gale & Co., bill.....	26 30	
		William's bill.....	6 93	
		H. & Markam's bill.....	8 03	
		R. Reaves' bill.....	16 36	
				69 87
		— 120. —		
22	50	Cambridge Estate .....Dr. to Sundries.		
		To Joel Knight, 1,472 feet rail stuff	22 08	
		2 M pickets, $14	14 00	
				36 08
1842	F. L.	— 120. —		
July 4	89	Sundries .....Dr. to Gravel Account.		
	54	C. Haynes, 111 loads gravel, cart by Stone.....	16 65	
		75 loads gravel, St. Clair	11 25	
		84 loads gravel, Buchy.....	12 60	
		40 loads gravel, Jennings.....	6 00	
	87	J. M. St. Clair, 303 loads gravel, June 27.....	45 45	
				91 95
		— 121. —		
Aug. 1	50	Cambridge Estate.....Dr. to Sundries.		
	54	To C. Haynes, &c.....	17 15	
	90	G. A. Gale & Co., lumber and bill.....	98 40	
	87	J. M. St. Clair, carting stone and lumber.....	11 50	
				127 05

Extracts—Continued.

			— 121. —	
Aug.	10	78	Sundries .....Dr. to Cash.	
			Mrs. A. Tufts, lent 10 00	
				$10 00
			— 121. —	
	16	87	Cash .....Dr. to Sundries.	
			J. M. St. Clair, bal. bill, gravel	33 95
			— 121. —	
	20	89	Sundries.....Dr. to Gravel Account.	
		34	Mason & Brooks, 57 loads gravel 7 75	
		88	W. B. Bridge & Co., 174 loads gravel, by Boynton 26 10	
			32 do. Wheeler 4 80	
			30 90	
		30	J. A. Holmes, 16 do. A. Stone, 1 s..... 2 67	
				41 32
			— 121. —	
			Cash .....Dr. to Sundries.	
	20	30	To J. A. Holmes, in full 5 17	
		88	W. B. Bridge & Co., gravel 30 90	
		89	Gravel acc't R. Dana, 50 loads..... 5 00	
			M. & Cook, 26 loads 3 90	
				44 97
			— 122. —	
	30	78	Mrs. A. Tufts.....Dr. to Sundries.	
			To sale powder, 1 qr. cask Dpt. Powder, Tyler .. 5 25	
			Cash, due bill to W. B. Bridge 7 05	
			Taxes for 1842 ..... 38 64	
				50 94
			— 122. —	
	30	78	Expense Account .....Dr. to Sundries.	
			Mrs. Anna Tufts, board from Jan. 1st to Oct. 12th, 40 5-7 weeks, at $8.....	325 71
			— 122. —	
Nov.	10	89	Sundries .....Dr. to Gravel Account.	
			Town of Cambridge, 565 loads gravel, 15 c..... 84 75	
			Dr. Watson, 149 loads gravel, 15 c..... ..... 22 35	
			West B. Bridge Co., 154 loads gravel, 15 c..... 23 10	
			Cash, 30 loads, McClure..... 3 00	
				133 20
	1842	F. L.	— 122. —	
Nov'r	10	50	Sundries.....Dr. to Cash.	
		50	Cambridge estate paid D. P. Wise, bill..... 40 64	
			Cambridge estate, W. B. Bridge, bill..... 5 32	
				45 96
			— 123. —	
			Cash.....Dr. to Sundries.	
			To W. B. Bridge Co., in full for gravel..... 23 10	
			Gravel account, S. Clair, 233 loads gravel..... 34 95	
			Town Cambridge, bill gravel 84 75	
				142 80
			— 123. —	
	31	78	Anna Tufts.....Dr. to Interest account.	
		56	Rent house and land, and interest on balance account due January 1st, 1842, to date.....	387 50

1957.

Extracts—Continued.

		— 123. —		
Nov'r 31	81	Expense account.....Dr. to A. Tufts.		
	78	Services account, magazine.....	150 00	
		Less, paid Charles Smith for carting powder to Providence and back, delivered by mistake	13 40	
				$136 60
1843		— 124. —		
January	84	Cash.....Dr. to Sundries.		
	43	To H. G. Ware, in full.....	4 00	
	91	A. A. Watson, in full.....	22 35	
	29	Jona. Livermore, in full.....	6 25	
	13	J. McDuffee.....	2 75	
	1	J. Edwards.....	3 75	
				39 10
		— 124. —		
January	89	Gravel account.....Dr. to Cambridge estate.		
	50	Received for gravel, 1842.....		310 32
		— 124. —		
April 28	–	Sundries.....Dr. to Cash.		
		G. A. Gale & Co., balance account.....	63 40	
		Expense account, Mrs. Short.....	77 81	
		Cambridge estate, paid J. Whipple, account ins..	8 90	
		Cambridge estate, repairing dike, &c.....	15 00	
		Cambridge estate, surveying.....	1 25	
		E. Short, 1 M. pickets.....	6 00	
		Sales powder, C. Smith 2 qr. casks.....	9 75	
				182 11
		— 125. —		
		Cash.....Dr. to Sundries.		
		To Cambridge estate, received of William Arkerson, jr.....	36 00	
		Gravel account, Murphy, 12 loads.....	2 00	
		Gravel account, J. B. Dow, 147 loads.....	22 00	
		Gravel account, Burrage, 37 loads.....	6 35	
		Gravel account, Murphy, 103 loads.....	15 25	
				81 60
		— 125. —		
July 1	89	Sundries.....Dr. to Gravel account.		
	92	Monroe & Cook, 132 loads gravel.....	19 80	
	87	J. M St. Clair, 245 loads gravel.....	36 75	
				56 55
1843	F. L.	— —		
Nov'r 21	84	Cash.....Dr. to Sundries.		
	17	To Mrs. Short, in full.....	10 00	
	93	James Perkins, on account.....	19 50	
	87	J. M. St. Clair, for gravel.....	36 75	
	68	J. Knights & Co., 2 M. pickets.....	14 00	
		J. Knights & Co., 2,938 feet rail stuff.....	29 38	
	89	Gravel account, D. Murphy, 144 loads gravel.	22 30	
		Gravel account, J. W. Cahill, 35 loads gravel.	5 25	
				137 18
		— 125. —		
December	89	Sundries.....Dr. to Gravel account.		
	36	Town of Cambridge, 733 loads gravel.....	87 96	
	87	J. M. St. Clair, 395 loads gravel, 15.....	59 25	
	88	W. B. Bridge Co., 84 loads gravel.....	12 60	
	19	Daniel Murphy, 37 loads gravel.....	5 55	
	35	St. Peter's church, 100 loads gravel.....	15 00	
				180 36

Extracts—Continued.

		— 126. —		
		Sundries.....Dr. to Cash.		
December	78	Mrs. A. Tufts, taxes, house and land.....	40 00	
	50	Cambridge estate, paid S. Pond, assessment acc't ins.....	14 40	
				$54 40
		— 126. —		
	78	Anna Tufts .....Dr. to Interest account.		
	56	Rent of house and land, and interest on balance due Jan. 1st, 1843, 1 year.....	394 88	
				394 88
		— 126. —		
	78	Expense account.....Dr. to A. Tufts.		
	81	290 quarts milk, at 6c.....	17 40	
		Services at magazine.....	150 00	
				167 40
		— 126. —		
	59	E. Tufts.....Dr. to Sundries.		
	84	To Cash, 800 lathes, 1½; cash, $5; 30 barrels, 6c..	12 00	
	56	P. B. Hovey & Co., 5 qr. casks powder.....	12 50	
				24 50
		— 126. —		
	59	Sundries.....Dr. to E. Tufts.		
	81	Expense account, 6 barrels apples.....	9 75	
	44	Expense account, sundries.....	2 12	
		Note received, due bill.....	55 38	
				67 25
		— 126. —		
	50	Cambridge estate.....Dr. to J. P. Staniels.		
	36	Stone for underpin barn, &c.....		33 00
		— —		
	84	Cash.....Dr. to Sundries.		
	36	To town of Cambridge, gravel, &c.....	92 96	
	87	J. M. St. Clair, gravel, &c.....	59 25	
				152 21
1844		— 127. —		
January	94	Sundries.....Dr. to sales Powder.		
	79	Mrs. Anna Tufts, 1 qr. cask Dupont, "J. Tyler".....		5 25
1844	F. L.	— —		
January	89	Sundries.....Dr. to Gravel account.		
	36	Town Cambridge, 366 loads gravel.....	54 96	
	84	Cash, Gould, 8 loads gravel.....	1 20	
		St. Clair, 294 loads gravel.....	44 00	
			45 20	
	75	John Boynton, 92 loads gravel, J. B. Dow.....	13 80	
		Daniel Murphy, loads gravel.		
		— —		113 96
	84	Cash.....Dr. to Sundries.		
	62	To A. C. Lombard & Co., balance account.....	3 08	
	66	P. B. Hovey & Co., balance account.....	2 75	
	36	Town of Cambridge, balance account.....	54 76	
				60 59
		— —		
	50	Sundries.....Dr. to Cambridge estate.		
	84	Cash received of Emerson Wheeler, on account of sale of lot land on west side Magazine st.	1,500 00	
	44	Notes received, E. Wheeler's note, dated Sept. 9, 1844, payable April, 1845, for balance amount sale.....	6,000 00	
				7,500 00

Extracts—Continued.

		— —		
December	94	Sundries.....Dr. to sales Powder.		
	78	Mrs. Anna Tufts, 1 qr. cask Dupont, Sept. 5th....	5 25	
		Mrs. Anna Tufts, 1-sixth qr. cask, October.....	3 00	
				$8 25
		— —		
December	79	Mrs. A. Tufts.....Dr. to Sundries.		
	84	To Cash, taxes for 1844.....	40 00	
	56	Interest account, rent of house and land, and interest on balance due January 1, 1844....	410 94	
	88	W. B. Bridge Co., received of Hadley for gravel	12 60	
				463 54
		— —		
December	79	Sundries.....Dr. to Anna Tufts.		
	84	Cash received of A. Cutter, seaweed.....	2 00	
	81	Expense account, services at magazine.....	150 00	
				152 00
		— —		
	46	Stock account.....Dr. to Sundries.		
	16	To L. & Beemis, balance due.....	602 57	
	45	Notes payable, note favor A. Tufts....	100 00	
		Notes payable, note favor J.E.Whitney	20 00	
		Notes payable, note favor Ad. Tufts...	40 00	
		Notes payable, note favor Jno.Matthews	95 00	
			255 00	
	31	S. M. Hobbs, 20 qr. casks powder.....	55 00	
	45	Notes payable, note due Mrs. Cazeu	1,500 00	
				2,412 57

Interest account.

1837.	F. D.	— 79. —	
April 1	38	Anna Tufts.....Dr. to Interest account.	
	56	Interest on $3,944 to date, 1 year.....	$59 16
		— —	
8	48	Cash.....Dr. to Interest account.	
	56	Interest on C. & B. note.....	14 80
		— 80. —	
May 12	48	Sundries .....Dr. to Cash.	
	56	Interest paid on note at William Minot's, for $1,500, to May 5th, 6 months.....	45 00
		— 81. —	
July 1	38	Anna Tufts..... Dr. to Interest account.	
	56	Interest on $3,944, from April 1st.....	59 16
		— 83. —	
Oct'r 1	38	Anna Tufts..... Dr. to Interest account.	
	56	Interest on $3,944, from July 1st.....	59 16
		— 84. —	
Nov'r 18	48	Sundries..... Dr. to Cash.	
	56	Interest account, J. Mathew's note.....	5 00
	56	Interest account, W. Minot, note.....	45 00

Interest account—Continued.

			— 84. —	
Dec'r	31	39	Anna Tufts.....Dr. to Sundries.	
		56	To Interest on $3,944, to date..... 59 16	
			— 85. —	
	31	48	Cash.....Dr. to Sundries.	
		56	To interest account on A. Tufts' 2 notes..... 49 56	
			— 86. —	
1838		48	Cash .....Dr. to Sundries.	
Feb'y	23	56	Interest account on J. P. Atkinson, note..... 7 00	
			— 87. —	
		56	Interest account.....Dr. to Cash.	
May	5	48	Paid interest, note to Mrs. Cazeau to date..... 45 00	
			— 87. —	
April	1	L	Anna Tufts .....Dr. to Interest account.	
			Interest on $3,944, from January 1st to date..... 59 16	
			— 8. —	
	*	28	S. B. M., Jr.....Dr. to Interest account.	
	30	56	Balance, amount interest on 14,068	
			— —	
			Anna Tufts .....Dr. to Sundries.	
July	1	–	Interest account on $3,944, 3 months..... 59 16	
			— 90. —	
1838		F. L.	Sundries .....Dr. to Cash.	
Aug.	1	56	Interest on A. C. L. note..... 45 00	
			— 91. —	
			Sundries .....Dr. to Cash.	
Sept.	20	56	Interest account, Mrs. Bisco, 1 year to Aug. 10th 34 20	
			— 91. —	
			Sundries.....Dr. to Interest account.	
		56	S. B. Morse.....	$283 98
Oct'r	1	39	Anna Tufts, $3,944, from July 1st..... 59 16	
			— 92. —	
			Sundries .....Dr. to Cash.	
Nov'r	10	56	Interest account, W. Minot, on note..... 45 00	
			— 9 . —	
		39	Anna Tufts.....Dr. to Sundries.	
		56	Interest account on $3,944, from October..... 59 16	
1839			— 97. —	
April	1	39	Mrs. A. Tufts .....Dr. to Sundries.	
		56	Interest account on $3,944, from January..... 59 16	
			— 98. —	
			Sundries .....Dr. to Cash.	
May	14	56	Interest account, paid William Minot..... 45 00	
			— 99. —	
July	1	39	Anna Tufts.....Dr. to Interest account.	
		56	On $3,944 to date..... 59 16	

		— 101. —		
Oct'r 1	39	Mrs. A. Tufts.....Dr. to Sundries.		
		To interest account on $3,944, 1 qr. rent.....	59 16	
		— 102. —		
Nov'r 5	56	Interest account.....Dr. to Cash.		
		Paid William Minot, interest to date.....45 00		
		— 103. —		
Dec'r 31	39	Anna Tufts.....Dr. to Interest account.		
	56	On $3,944, from October 1st, rent.....	59 16	
		On $449 84, balance due Jan. 1st, 1839, to date..	26 99	
				$86 15
		— 104. —		
1840				
April 1	39	Anna Tufts.....Dr. to Sundries.		
	56	To interest account on $3,944, 3 months, rent....	59 16	
		— 105. —		
May 20	–	Sundries.....Dr. to Cash.		
		Interest account, Mrs. Cazeau.....	45 00	
	F. L.	— 106. —		
1841				
July 1	39	Mrs. A. Tufts.....Dr. to Sundries.		
		Interest account on 3,944, 3 months, rent.....	59 16	
		— 109. —		
		Mrs. A. Tufts.....Dr. to Sundries.		
Oct'r 1	56	To interest on $3,944, 3 months, rent.....	59 16	
		— 110. —		
		Sundries.....Dr. to Cash.		
Nov'r 14	56	Interest account, paid William Minot.....	45 00	
		— 112. —		
		Mrs. A. Tufts.....Dr. to Sundries.		
Dec'r 31	56	To interest account on $3,944, 3 months, rent.....	59 16	
		— 112. —		
		Mrs. A. Tufts.....Dr. to Sundries.		
	56	To interest acc't on $544 82, bal. due Jan. 1st, 1840	32 68	
		— 114. —		
		Sundries.....Dr. to Cash.		
May 19	56	Interest account, paid William Minot.....	45 00	
		— 117. —		
1841				
		Sundries.....Dr. to Cash.		
Nov'r 27	56	Interest account, paid William Minot on note.....	45 00	
		— 118. —		
		Anna Tuft.....Dr. to Sundries.		
Dec'r 31	56	Interest account on above to date.....	204 48	
		Interest acc't on $985 20, bal. due Jan. 1st	59 10	
		Interest account on $3,944, from January, (being rent).....	236 64	
		Interest account on note, $500, dated Jan. 1, 1838.....	120 00	
			620 22	

Interest account—Continued.

		— 120. —
1842	F. L.	Sundries.....Dr. to Cash.
May 22	56	Interest account, paid William Minot..... 45 00
		— 122. —
		Sundries.....Dr. to Cash.
Nov'r 10	56	Interest account, paid William Minot..... 45 00
		— 123. —
	39	Anna Tufts.....Dr. to Interest account.
Dec'r 31	56	Rent house and land, and interest on balance account due January 1st, 1842, to date..... 387 50
		— 126. —
		Sundries.....Dr. to Cash.
Dec'r 31	–	Interest account, paid William Minot..... 90 00
		— 126. —
1843	–	Anna Tufts.....Dr. to Interest account
December	–	Rent of house and land, and interest on balance due Jan. 1st, 1843, 1 year..... 394 88
		— 128. —
1844	–	Anna Tufts.....Dr. to Sundries.
December	–	To interest account, rent house and land, and interest on balance due Jan. 1, 1844, to date..... 410 94

Circuit court of the United States for the first circuit and district of Massachusetts, in chancery.

Between ANNA TUFTS, plaintiff,
and
CHARLES TUFTS and EMERSON WHEELER, def'ts.

It is agreed that the above extracts from the books kept by said Charles Tufts, and produced in the above cause, may be used on the hearing, without prejudice to the right and liberty of referring to and using the said books.

RAND, WARREN & FISKE,
For plaintiffs.
S. E. SEWALL, *for defendants.*

UNITED STATES OF AMERICA,
Circuit court of the district of Massachusetts:

ANNA TUFTS,
vs.
CHARLES TUFTS & al. } In equity.

I, Charles Tufts, on oath do testify and say, that the journal or day-book, and the leger, which have been produced by me in this case for the inspection of the plaintiff, are the only books of accounts or writings containing any accounts kept by me or for me, wherein there is any item or entry touching or pertinent to the matters in issue in this case, in my possession or power.

CHARLES TUFTS.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss:*

February 5, 1846. Subscribed and sworn to before me,
S. E. SEWALL,
Justice of the Peace.

EVIDENCE FOR DEFENDANTS.

Deposition of Richard Perkins.

In the circuit court of the United States, for the first circuit and district of Massachusetts, in chancery.

Between ANNA TUFTS, plaintiff,
and
CHARLES TUFTS & EMERSON WHEELER, defendants.

Interrogatories on behalf of the defendants, to be proposed to Richard Perkins, of Boston, in the county of Suffolk, merchant:

1st. Are you acquainted with the parties to this suit, either and which of them, and how long have you known them?

2d. Are you acquainted with Ammi Cutter and Daniel Cummings, formerly partners in said Boston under the firm of Cutter and Cummings?

3d. Where you a clerk in the employ of Cutter and Cummings in the year 1828; if yea, how long had you been their clerk, and how long did you continue so?

4th. When was the partnership between said Cutter and Cummings dissolved; did you at any time, and when, become a partner with said Cutter, and how long did you continue so?

5th. Whether or not, when you became a partner with said Cutter, said Cummings conveyed to you one undivided third, or any other, and what, part of the homestead and other premises in Cambridgeport, formerly of Peter Tufts, jun., and more recently occupied by said Anna Tufts; what consideration, if any, did you pay said Cummings for the said conveyance; whether or not the sale of his interest in said premises to you by said Cummings was absolute, or was there any, and if any, what, written or verbal condition annexed by him to the sale which

would prevent you from selling the said premises to any person you pleased?

6th. Whether or not said Cummings, at or about the time of selling his interest in said premises to you, said anything, and if anything, what, to you about any right or claim of said Anna Tufts to purchase the said premises; and whether or not you promised said Cummings, or any other person, and if any, whom, verbally or in writing, and how, if at all, to hold the interest in said premises sold by him to you for the benefit of said Anna Tufts, in any, and if any, what, way, or to allow her to purchase the same on any, and if on any, on what, terms?

7th. Whether or not you ever sold and conveyed your interest in said premises to said Cutter; if you did, when, and for what price, and on what terms?

8th. Whether or not your sale of your interest in said premises to said Cutter was absolute and unconditional or conditional; and if conditional, on what conditions; whether or not said Cutter promised you, either verbally or in writing, and in what manner, if at all, to hold the interest you conveyed to him for the benefit of said Anna Tufts in any, and if in any, what, way, or to allow her to purchase the same on any, and if on any, what, terms?

9th. Whether or not, to your knowledge, said Cutter and Cummings, or either of them, ever promised, verbally or in writing, and in what manner, if at all, the said Anna Tufts to allow her to purchase the said premises; and if so, on what terms as to price and time of payment, and what was the consideration of any such promise; or was it or not a mere favor without any consideration?

10th. Whether or not to your knowledge said Anna Tufts ever promised said Cutter and Cummings, or either of them, that she would buy the said premises of them or either of them? If so, on what terms did she make such promise?

11th. Have you access to the books of accounts kept by said Cutter and Cummings, and by Cutter and yourself, while you were in partnership with said Cutter? If yea, please identify the books so that they can be used in the trial of this case, and please annex to your answer copies from said books of the account with estate in Cambridge, and the account with Mrs. Anna Tufts. In whose handwriting are the entries in said accounts, both in the leger and the book of first entries? What estate is signified by "Estate in Cambridge," in said books? If said Anna Tufts is charged with rent in said books, please state for what property she is charged with rent?

12th. Whether or not said Cutter and yourself ever advertised the said premises for sale? If you did, when; and in what newspapers? Whether or not any person or persons, and if any, who, ever talked with said Cutter and you, or either and which of you, about purchasing the said premises? Did any person make any, and, if any, what offers for the same; and whether or not such offers were rejected; and, if rejected, for what reason? What price did said Cutter and yourself ask for said premises?

Lastly. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

Cross interrogatories to be administered to Richard Perkins, a witness proposed to be examined on behalf of the defendants.

1st. Have you not heretofore, on application to you on behalf of the plaintiff, declared that you never heard anything said between the said Cutter or Cummings, or said Anna, and the said Charles, touching any agreement respecting the premises mentioned in the fifth direct interrogatory?

2d. When you went into partnership with said Ammi Cutter, did you not merely take the place, and succeed to the rights and interest which the said Cummings had therein at the time of the dissolution of the copartnership between him and said Cutter, or how otherwise? Was it agreed that you should have any other or different interest or concern in the said premises, mentioned in the fifth direct interrogatory, one undivided third part whereof was conveyed to you, than said Cummings had before, and at the time of this conveyance? Was this conveyance made to you for any other reason that you was to succeed to the rights and interest, and take the place of the said Cummings in the said concern and partnership? And if so, for what other reason? Did you pay any, and, if any, what consideration for that conveyance in particular; or was it not made to you as a matter of course on your coming into the copartnership, for the like reason as it had been previously made to said Cummings? While you were clerk to said Cutter and Cummings, and while you were in copartnership with said Cutter, until the conveyance of the whole of said premises by said Cutter to said Charles Tufts, were you not given to understand from the said Cutter and Cummings, or either and which of them, that the said premises were taken and held for the benefit of the said Anna, and not for any gain or profit to be made therefrom to the joint concern? Were you not informed that nothing was expected therefrom to the joint concern, but the money paid therefor, and simple interest? Is not the said Cutter a relative and friend of said plaintiff, Anna Tufts? Were you not informed that the premises aforesaid were purchased and taken and held at the desire of said Cutter, and under some agreement or understanding of some sort between him and his relative and friend, the said Anna? Were not the dealings in respect to the premises with the said Anna, transacted wholly or principally by the said Cutter, and not by the said Cummings or by you? Was not the taking and holding the said premises from the first to the last, considered and treated as peculiarly his affair? Did either you or the said Cummings, as far as you know, during the time the premises were held by Cutter and Cummings, or Cutter and Perkins, have any dealings, or make any bargains with the said Anna, touching the premises, other than such, if any, as were made through

the agency of the said Cutter? If so, when, and what were they; and by whom had or made?

3d. If, in answer to the twelfth direct interrogatory, you speak of any advertisement of the premises for sale, please to declare whether it was not understood that no benefit was to be derived therefrom to the joint concern, beyond the sum or amount originally paid therefor, and simple interest? Was it not understood that the balance, if the premises should on sale bring anything more than said sum and interest, was to be paid over to the said Anna Tufts? Has not the said Anna Tufts lived on the premises, and occupied and carried on the farm there, ever since her husband's, the said Peter Tufts, death, hitherto? Has she not set out fruit and ornamental trees to a considerable and what amount, upon the premises? Has she not made alterations in and additions to the buildings on the premises, and erected buildings thereon? Did she not, while it was held as aforesaid, pay the taxes thereon? Has she not sold sand and gravel to a large amount from the premises from year to year, and received considerable sums of money therefor? Has either the said Cutter, Cummings, or yourself, ever interfered with her doings herein? If so, how, and wherein? Have either of you ever called her to account therefor; if so, when, and how? Have either of you ever called upon her for the payment of any rent for the occupation of the premises; if so, when; and what rent; and for what period of time; and under what agreement; and when made; and by whom? While the premises were held by said Cutter and Cummings, Cutter and Perkins, or by said Cutter, were not applications made by divers persons to purchase portions of the said premises; and were not such applicants referred by said Cutter, or by said Cummings, or by you, to said Anna, as being the equitable owner of the premises? Did not said Cutter, while he held the premises, refer certain persons to her to bargain for a portion of the premises? And did the said Anna make a bargain to sell a small portion of the premises to some person or persons while the said Cutter held the same; and if yea, did not the said Cutter thereupon convey to such person or persons, upon the terms agreed upon by the said Anna; and did not the said Cutter permit the said Anna to receive the consideration therefor, or to have the whole benefit thereof, by crediting the same to her in account, or how otherwise? Did the said Cutter and Cummings, or Cutter and Perkins, or Cutter, receive for the said premises more than the sum originally paid by Cutter and Cummings therefor, and simple interest, or how otherwise?

4th. Have you seen or conversed with Charles Tufts and Solomon B. Morse, jun., or either and which of them; and when, and where, and how often, or how many times, on the subject of the above entitled cause, or touching your testimony?

5th. If you speak of any advertisements of the premises, declare whether it was not done by you, or at your request? And whether you did not assign as a reason that the money paid for the premises was worth more to the firm than the simple interest, which was all the firm could receive, or something of the like import or effect? Did not the

said Cutter thereupon, or soon afterwards, agree to take a conveyance from you, and hold the whole premises himself? Was not this done because you were unwilling that your interest in this sum should remain at simple interest? Did you not complain to the said Cutter, that the firm could not afford to have the said sum lie at simple interest, before anything was done in the premises? Was it not in consequence of your complaints or objection to having this sum remain at simple interest, that the said Cutter agreed to take the conveyance to himself, and that the conveyance was made to said Cutter? Was not the concern of Cutter and Perkins, or Ammi Cutter, about the fore part of the year 1834, or latter part of the year 1833, or when, pressed for money, or embarrassed in business, by reason of debts or liabilities? Did they or he fail or come to a compromise with creditors? If so, when did such pressure and embarrassment first commence?

RAND, WARREN & FISKE,
For Plaintiffs.

A true copy. Attest FRANCIS BASSETT, *Clerk.*

Answers of Richard Perkins to the interrogatories hereto annexed on the part of the defendants.

1st. To the first interrogatory he says: I am acquainted with Mrs. Tufts and Charles Tufts, and have known them for seventeen years and upwards; I do not know Emerson Wheeler.

2d. To the second interrogatory he says: I am acquainted with the said Ammi Cutter and the said Daniel Cummings.

3d. To the third interrogatory he says: I was a clerk in the employ of Cutter and Cummings in the year 1828, and remained so till January, 1831; I came into the employ of Mr. Cutter, as a clerk, in August, 1825.

4th. To the fourth interrogatory he says: The partnership between the said Cutter and Cummings was dissolved in January, 1831; I became a partner with Mr. Cutter at that time, and continued so till July, 1842.

5th. To the fifth interrogatory he says: When I became a partner with the said Cutter, the said Cummings did convey to me one undivided third part of the homestead and other premises in Cambridgeport, formerly of Peter Tufts, jun., and more recently occupied by the said Anna Tufts; I gave him eleven hundred dollars, I think, for the said conveyance; his sale of his interest in the said premises to me was absolute, and there was no written or verbal condition annexed by him to the sale which would prevent me from selling the said premises to any one I pleased.

6th. To the sixth interrogatory he says: Mr. Cummings did not, at or about the time of selling his interest in the premises to me, say anything to me about any right or claim of the said Anna Tufts to purchase the said premises; I have no recollection of any promise made by me to him or any one else, verbally or in writing, to hold my interest in the

said premises for the benefit of the said Anna Tufts in any way, or to allow her to purchase the same on any terms.

7th. To the seventh interrogatory he says: I did sell and convey my interest in the said premises to the said Cutter about the close of the year 1831, or the beginning of 1832; I do not recollect the exact price, but it was one third of the price at which it stood on our books at the time, including interest and expenses, and deducting the rent received.

8th. To the eighth interrogatory he says: My sale of my interest in the said premises to the said Cutter was absolute and unconditional; Cutter did not promise me in any way to hold the interest I conveyed to him for the benefit of the said Anna Tufts, or to allow her to purchase the same on any terms; I have no recollection that anything passed between us on the subject at the time.

9th. To the ninth interrogatory he says: I have no knowledge myself of any promise made by the said Cutter or the said Cummings, to Mrs. Tufts, to allow her to purchase the said premises on any terms, but my impression always was, that the estate was purchased by Mr. Cutter for Mrs. Tufts, and that she might repurchase it when she had the means; I know nothing further.

10th. To the tenth interrogatory he says: I do not know as to any such promise by Mrs. Tufts.

11th. To the eleventh interrogatory he says: The books of account kept by Cutter and Cummings, and by Cutter and myself, are now before me, marked J and L, that is the legers; the papers hereto annexed are copies from the accounts in the said legers; in the book marked J the entries are in my handwriting down to January, 1831, and after that in Charles Cutter's handwriting; in the book L the entries on page 360 are in the handwriting of Charles Cutter and A. W. Cutter, and one in that of Mr. Ammi Cutter; the entries on p. 369 are in Charles Cutter's hand; I cannot say in whose hand the entries in the book of first entries are; they are not in my possession; the "Estate in Cambridge" means the estate on which Mrs. Tufts lived, and she is charged with rent for that property.

12th. To the twelfth interrogatory he says: I do not remember whether the said premises were ever advertised for sale; my impression is that they were so advertised, but if so, I cannot tell when or in what newspapers; Mr. T. G. Fessenden talked about purchasing the place with Mr. Cutter; I think I have no distinct recollection as to any offers being made for the place, and I do not know what price was asked for it.

13th. To the thirteenth interrogatory he says: I know not.

Answers to cross interrogatories.

1st. To the first cross interrogatory he says: I do not remember having made any such declaration as is herein declared of, though I may have said it; I talked about the matter in Mr. Rand's office, but I do not remember what was said.

2d. To the second cross interrogatory he says: When I went into

partnership with Mr. Cutter, I merely took the place, and succeeded to the rights and interest of Mr. Cummings at the time; it was agreed that I should take Mr. Cummings' interest in the concern, and this conveyance was made to me because I was to succeed to the interest of Mr. Cummings in the concern, and take his place therein; I did pay eleven hundred dollars for my interest in these premises conveyed to me by Mr. Cummings; it was conveyed to me as a part of the copartnership property when I came into the concern, but I do not know as to the terms on which it was made to Mr. Cummings; while I was clerk to Cutter and Cummings, and while I was in copartnership with Cutter, and before the conveyance to the said Charles Tufts, I had the impression, received from them both, as I *think*, that the premises were taken and held for the benefit of the said Anna, and not for any profit to the joint concern, and that nothing was expected therefrom to the copartnership but the price and expenses and simple interest; I believe there is a family connexion between Mr. Cutter and Mrs. Tufts; I think I was informed that the said premises were taken and held at the desire of the said Cutter, and under some kind of agreement or understanding with Mrs. Tufts; the dealings in respect to the said premises were with Mr. Cutter, and it was regarded as peculiarly his affair; I did not, nor did Mr. Cummings, so far as I know, while the premises were held by Cutter and Cummings, or by Cutter and Perkins, have any dealings, or make any bargains, with the said Anna touching the premises, other than such as were made through the agency of the said Cutter, except that I went once or twice to ask her to pay a bill of rent.

3d. To the third cross interrogatory he says: I do not remember as to any advertisement of the said premises; I believe that the said Anna Tufts has lived on the said premises, and carried on the said farm, ever since her husband's death; I do not know as to her setting out any trees, or as to any additions or betterments made by her, or as to any payment of taxes, or as to any sale of sand or gravel; I have not interfered with her doings therein, if any, nor have the said Cutter or Cummings, to my knowledge, nor have I, nor they to my knowledge, called on her to account therefor; I called on her once or twice to pay rent for the premises; I cannot tell exactly when, but it was some time between 1829 and 1831; the rent was charged quarterly, and it was a quarter's rent I went to collect; the agreement respecting it was made by Mr. Cutter, I suppose, and I don't know what it was; I have no recollection of any applications made to purchase portions of the said premises; some persons talked about buying the whole estate; I have no recollection that any persons were referred by Mr. Cutter, Mr. Cummings, or myself, to Mrs. Tufts, as being the equitable owner thereof; a small lot of land was sold from the place to Mr. Kinsley, while Mr. Cutter held it, I believe, but I do not know who made the bargain or the conveyance, and only know that the price was credited to Mrs. Tufts upon account; I think no more was received for the said premises than the sum originally paid for them, and interest, and all expenses.

4th. To the fourth cross interrogatory he says: I have had some con-

versations on the subject with Charles Tufts, at the counting-room of the wharfinger of the T wharf; I cannot tell when, or how many; I had also one conversation on the subject with Mr. Morse, at the same counting-room, a few weeks since.

5th. To the fifth cross interrogatory he says: I do not remember as to any advertisements; I do not remember that anything was ever said by me as to the money paid for the premises being worth more to the firm than simple interest; I thought it was not profitable to the concern to keep the premises, and I presume I said so to Mr. Cutter; and owing to my objections to keep it, and wish to get rid of it, he agreed to take my portion off my hands; had he declined to do so, I should have felt at liberty to offer it to any one else; the firm of Cutter and Perkins was pressed for money in the beginning of 1834, and in March of that year we assigned our property for the benefit of our creditors; I cannot say exactly when our embarrassments began; we were in good credit to the date of our assignment.

RICHARD PERKINS.

Sworn to before me, the twenty-sixth day of July, 1845.

GEO. S. HILLARD, *Commissioner.*

DR. [COPY.]—*Estate in Cambridge.* CR.

1828.			1828.			
Sept. 27	For sundries	$3475 30	Dec. 31	By Anna Tufts, 27th		$53 87
Dec. 31	interest	54 44	31	Anna Tufts, 27th		81
1829.			1829.			
June 27	L. Beals	4 62	April 6	Anna Tufts, 27th		54 68
July 11	Gregg & Hollis	63 77	July 18	Anna Tufts, 27th		54 68
15	Wm. Masters	51 08	Oct. 3	Anna Tufts, 27th		54 68
Dec. 22	insurance office	4 50	Dec. 31	Anna Tufts, 27th		54 68
31	interest	219 22	31	Balance new account		3599 53
		3872 93				3872 93
1830.			1830.			
Jan. 1	For balance	3599 53	April 14	By Anna Tufts, 27th ult		54 68
Dec. 31	interest	196 84	June 30	Anna Tufts, 27th inst		54 68
		3796 37	July 20	M. Low & E. Kingsley		100 00
			Oct. 22	Anna Tufts, 27th ult		54 68
			Dec. 28	Anna Tufts, 27th		54 68
						318 72
				Balance new account		3477 65
		3796 37				3796 37
1831.			1831.			
Jan. 1	For balance	3477 65	April	By Anna Tufts, March 27		54 68
Dec. 31	interest	195 53	June 27	Anna Tufts, March 27		54 68
		3673 18	Sept. 27	Anna Tufts, March 27		54 68
			Dec. 27	Anna Tufts, March 27		54 68
						218 75
				Balance new account		3454 46
		3673 18				3673 18
1832.						
Jan. 1	For balance	3454 46	Jan. 19	By notes payable		46 83
19	sundries	735 64	19	Ammi Cutter		2762 18
			19	R. Perkins		1381 09
		4190 10				4190 10

Paper marked A, annexed to the deposition of Richard Perkins, being a copy of page 354 of the leger of Cutter & Cummings, being the book marked J.

GEO. S. HILLARD, *Commissioner.*

DR. [COPY.]—*Anna Tufts, executrix.* CR.

1828.			1828.		
Sept. 27	For sundries	$3460 00	Sept. 27	By amount land, &c, at auction	$3460 00
1828.			1828.		
Dec 31	For rent 1 qr. due 27th	53 87	Dec. 31	By endorsement on note	54 68
31	rent 1 qr. due 27th	81			
		54 68	1829.		
			Sept. 22	By sundries	54 68
1829.			1830.		
April 6	For rent 1 qr. due 27th ulto	54 68	Nov. 3	amount bill of furniture	376 83
July 18	rent 1 qr. due 27th ulto	54 68			
Oct. 3	rent 1 qr. due 27th ulto	54 68			
Dec. 31	rent 1 qr. due 27th inst	54 68			
1830					
April 14	rent 1 qr. due 27th ulto	54 68			
June 30	rent 1 qr. due 27th inst	54 68			
Oct. 22	rent 1 qr. due 27th ulto	54 68			
Nov. 3	sundries	48 75			
		431 51			431 51
			1832.		
Dec. 28	For rent 1 qr. due 27th	54 68	Jan'y 19	By estate in Cambridge	273 40
1831.					
April 5	rent 1 qr. due 27th ult	54 68			
June 27	rent 1 qr. due 27th inst	54 68			
Sept. 27	rent 1 qr. due 27th inst	54 68			
Dec. 27	rent 1 qr. due 27th inst	54 68			
		273 40			273 40

Paper marked B, annexed to the deposition of Richard Perkins, being a copy from page 355 of the leger of Cutter & Cummings, being the book marked J.

GEO. S. HILLARD, *Commissioner.*

DR. [COPY.]—*Charles Tufts.* CR.

1832.			1832.			
Jan. 2	For estate in Cambridge	$4134 42	Jan. 13	By cash		$1000 00
Nov. 27	5 galls. fall oil	5 00	Dec. 31	cash, April 14, J. M.		181 71
Dec. 31	interest	182 59	31	cash, April 1		47 04
1833.			31	cash, July 18th		44 33
Nov. 19	one gall. wh. oil	50	31	cash, Oct. 1		44 33
Dec. 25	5 gall. wh. oil	2 50	31	cash, Dec. 31		99 60
31	interest	168 17	1833.			
			Dec. 31	cash, sundry times		368 17
		4493 18	31	cash, new account		2708 00
		4493 18				4493 18
1834.			1834.			
Jan. 1	For bal. old account	2708 00	Jan. 31	By cash		400 00
Feb. 5	interest	15 39	Feb. 5	cash		15 39
			5	his note, Feb. 5, 1839		1500 00
			5	his note, Feb. 5, 1835		500 00
			5	his note, April 5, 1834		300 00
			5	new account		8 00
		2723 39				2723 39
1834.			1835.			
Feb. 5	For bal. old account	8 00	March 7	By cash		8 00

Paper marked C, annexed to the deposition of Richard Perkins, being a copy from page 360 of the leger of Cutter & Perkins, being the book marked L.

GEO. S. HILLARD, *Commissioner.*

DR. [COPY.]—*Tufts' estate in Cambridge.* CR.

1832.			1832.			
Jan. 13	To Cutter & Perkins	$4143 27	Jan. 1	By Charles Tufts		$4134 42
			13	interest		8 85
		4143 27				4143 43

Paper marked D, annexed to the deposition of Richard Perkins, being a copy from page 369 of the leger of Cutter & Perkins, being the book marked L.

GEO. S. HILLARD, *Commissioner.*

Deposition of James F. Ward and Thomas J. Currier.

CIRCUIT COURT OF THE UNITED STATES,
District of Massachusetts:

ANNA TUFTS, in equity,
vs.
CHARLES TUFTS and EMERSON WHEELER. } In chancery.

Interrogatories on behalf of the defendants to James F. Ward and Thomas J. Currier, both of Boston, in said district.

1st. Are you acquainted with the parties to this suit, either and which of them, and how long have you known either and which of them?

2d. Are you acquainted with Elbridge Tufts, of Cambridge, in said district, son of the said Anna Tufts, and how long have you known him?

3d. Whether or not, at any time, and when, if at any time, in the month of September, 1844, or at any other time, and when, at the store of said Ward, in Merchants' Row, or at any, and if any, what, other place, any conversation took place between said Elbridge Tufts and said Emerson Wheeler in reference to purchasing gravel; if any such conversation took place, please state the whole of it, and all that was said by said Elbridge and by said Emerson.

4th. Whether or not said Emerson, in such conversation, asked said Elbridge what he asked for a thousand loads, or for any, and what, other quantity, of gravel; if he did, what reply did said Elbridge make, and whether or not he, said Elbridge, said that he, said Elbridge, had or had not anything to do with it, and that he, said Emerson, must go to any, and if any, what, other person; who was present at that conversation?

5th. Whether or not, in such conversation, or in any other between said Elbridge and said Emerson, and when, if ever, said Emerson made any, and if any, what, inquiry of said Elbridge as to the title of the premises in Cambridgeport, formerly the homestead of Peter Tufts, jun., and more recently occupied by said Anna, and as to who held the deed of said premises; or as to whether said Charles Tufts could give a good title to the premises? Please state particularly the time and place of any such conversation, if any such took place, and who was present at it, and all that was said.

6th. Whether or not, at any time after the said conversation inquired of in the third interrogatory, you heard any conversation between said Elbridge and said Emerson in regard to the conversation referred to in said third interrogatory; if you did, please state how soon after the time of said first conversation it took place, and when, and where, and who was present at it, and what was said by them both?

7th. Whether or not, in said second conversation, said Elbridge said "you have come the possum over me pretty well," or any, and if any, what, words to that or similar effect?

Lastly. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause,

or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at length in your answer.

S. E. SEWALL,
For C. Tufts and E. Wheeler.

Cross interrogatories to be proposed to James F. Ward and Thomas J. Currier, witnesses proposed to be examined on the part and behalf of the plaintiff.

1st. Have you not applied to the said Anna Tufts to purchase the premises in the fifth direct interrogatory mentioned, or some, and what, part of them, and when, and whether more than once, and when last; if so, did you make the said Anna any offer for the same, or any part thereof; did you request her to give you an opportunity to purchase if she should conclude to sell; did you ask her to let you have the first opportunity, and before any one else, to buy in such case; why did you apply to the said Anna Tufts to purchase the premises; was you referred by any one to her as being the owner of the premises, and by whom, or was it because she was generally reputed in Cambridgeport to be the person owning, or really interested in, the premises; do you not know that the said Anna has sold gravel from the premises to divers persons, in divers years, ever since the death of Peter Tufts, mentioned in the fifth direct interrogatory, to a considerable and what amount; do you not know that she has planted fruit and ornamental trees at various times, or at some time, on the premises; do you not know that she has made additions to, alterations in, and repairs in, the buildings on the premises?

2d. Is it not a matter of general notoriety, in Cambridgeport, and in the vicinity of the premises, that the said Anna Tufts has, since the death of the said Peter, or for a long period of time, been in the possession and improvement of the premises, carrying on the business of the farm, and making betterments on the premises, and dealing therewith in that regard as if she were the owner thereof, or how otherwise?

3d. Do you know, or has the said Wheeler at any time informed you, whether any person or persons, and if so, who, was or were concerned or interested with him, originally or otherwise, in the purchase which he made of a portion of the said premises from Charles Tufts? If so, please to state who he named as interested with him, and whether originally or not? Did you not tell the said Wheeler, before his said purchase, that the said Anna, as you believed, owned or had an interest in, or claimed to have an interest in, the said premises? Did you tell said Wheeler, before his said purchase, that you had applied to her, the said Anna, to buy the premises or any part thereof, or that you had applied for, or were to have the first offer, in case she should conclude to sell?

4th. If you speak of any conversation between the said Wheeler and Elbridge Tufts, inquired after in the direct interrogatories, please declare whether you now recollect all which was said between them at

the time; whether you recollect the words made use of by each; whether you recollect and can state the conversation precisely in the order in which each spoke; whether you recollect the language of each person, in the exact connection in which it was used; whether you now state the whole conversation; whether you state the precise words and language used; whether you state it in the same connection in which it was used?

5th. Before any conversation inquired after in the direct interrogatories, had you not conversations with said Wheeler respecting purchasing the said premises, or a portion thereof, or gravel therefrom, of the said Anna Tufts? If so, did not the said Wheeler, in such conversation with you, admit, or was it not suggested by you to him, that the said Anna pretended or claimed to have, or had, the right to dispose thereof, or some interest therein?

6th. Have you heard the said Wheeler say, or any one, and who, if any, concerned with him, that he expected to make any, and what, profit from the said purchase?

RAND, WARREN & FISKE,
For plaintiff.

Answers of J. F. Ward to the interrogatories hereto annexed on the part of the defendants.

1st. To the first interrogatory he says: I know the parties to this suit, and have known them for fifteen years and upwards.

2d. To the second interrogatory he says: I am acquainted with the said Elbridge Tufts, and have known him for fifteen years and upwards.

3d. To the third interrogatory he says: A conversation took place between the said Elbridge Tufts and the said Emerson Wheeler, at my store in Merchants' Row, in the month of September last, in reference to purchasing gravel. Mr. Wheeler asked Mr. Tufts what he would sell him five hundred loads of gravel for—either five hundred or ten hundred loads—I think it was five hundred. He told him he could not sell it, because it was Charles', or it belonged to Charles, or he must go to Charles.

4th. To the fourth interrogatory he says: I have stated the whole of the conversation in my answer to the third interrogatory. Mr. Currier and myself were present, but I don't know that any others were.

5th. To the fifth interrogatory he says: I do not recollect of hearing any such conversation.

6th. To the sixth interrogatory he says: Shortly after the said conversation in my store, a few days after, I heard a conversation between said Wheeler and said Tufts respecting the said first conversation; this second conversation was in my store also. Mr. Tufts said to Mr. Wheeler, "You rather come it on me by asking how much I would take for the gravel, after you had bought the place." There was nothing more said. I think Mr. Currier was present with me at this conversation.

7th. To the seventh interrogatory he says: He said, "You rather come it on me," or "You rather come the possum on me." I will not be positive which, but I believe the latter.

8th. To the eighth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: I have applied to the said Anna Tufts to purchase the said premises; this was two or three months before Mr. Wheeler purchased. I never applied to her to purchase the said premises but once; I made her no offer; I asked her to let me have the first chance, if she concluded to sell. I thought she was the owner. I was not referred to her, as being the owner, by any one. She was generally reputed, in Cambridgeport, to be the person owning or really interested in the premises. I know that gravel has been sold in large quantities from the place, but I do not know who has sold it. I do not know as to her planting trees on the premises, nor as to additions, alterations, or repairs upon the premises.

2d. To the second cross interrogatory he says: It is a matter of general notoriety in Cambridgeport, and the vicinity of the premises, that the said Anna Tufts has, since the death of the said Peter, been in the possession and improvement of the premises, carrying on the farm, and dealing with it as if she were the owner.

3d. To the third cross interrogatory he says: Mr. Wheeler has told me that Mr. Holmes, Mr. Hovey, and Mr. Chamberlain, were interested with him in the said purchase. He said that they were originally interested, as I understood. I told Mr. Wheeler, before he purchased, that I thought Mrs. Tufts owned the place, and that I had applied to her to purchase it, and had asked her to let me have the first offer.

4th. To the fourth cross interrogatory he says: I can recollect, and have stated, as I think, the whole of the said conversations, the words used by the parties, or very nearly the same, and the order and connection in which they were used.

5th. To the fifth cross interrogatory he says: I do not remember that I had had any conversation with Mr. Wheeler, before the conversations inquired after, respecting a purchase of the said premises, or of part thereof, or of gravel therefrom.

6th. To the sixth cross interrogatory he says: I have heard Mr. Wheeler say that he would not take five hundred dollars for his part of the profit.

J. F. WARD.

Sworn to before me, the twenty-fifth day of July, 1845.

GEO. S. HILLARD,
Commissioner.

Answers of Thomas J. Currier, to the interrogatories hereto annexed on the part of the defendants.

1st. To the first interrogatory he says: I am acquainted with all the parties, and have known them about two years.

2d. To the second interrogatory he says: I have known the said Elbridge Tufts for about a year and a half.

3d. To the third interrogatory he says: I cannot tell what the date of this conversation was. It was some time last fall. It took place between Emerson Wheeler and Elbridge Tufts, at Mr. Ward's cellar. Mr. Tufts came down into the cellar, and Mr. Wheeler was there. Mr. Wheeler asked Mr. Tufts if he would sell him some gravel. He told him he must go to Charles. That was all that I remember of the conversation.

4th. To the fourth interrogatory he says: I don't recollect that Mr. Wheeler mentioned any quantity of gravel. I have stated all of the conversation that I recollect. Mr. Ward was there. I do not remember that any one else was present.

5th. To the fifth interrogatory he says: I never heard any thing said as to the title of the premises between them, and never was present at any conversation between them on the subject, except that above mentioned in my answer to the third interrogatory.

6th. To the sixth interrogatory he says: I have no recollection of any such conversation as is herein inquired of.

7th. To the seventh interrogatory he says: I never heard the said Elbridge say this to my knowledge.

8th. To the eighth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: I have never applied to Mrs. Tufts to purchase the said premises, or any part thereof. I know nothing as to her sale of gravel and sand, or as to what she has done about the premises.

2d. To the second cross interrogatory he says: I know not.

3d. To the third cross interrogatory he says: I do not know, and never heard from Mr. Wheeler, who were associated with him in his purchase. I never told him any of the matters herein inquired of.

4th. To the fourth cross interrogatory he says: I do not pretend to remember or state the whole of the said conversation, or the precise words used, or the order in which they were used. I have stated the substance of all that I recollect.

5th. To the fifth cross interrogatory he says: I never had any conversations with Mr. Wheeler on the subject.

6th. To the sixth cross interrogatory he says: I have not heard Wheeler, or any one, say so.

THOS. J. CURRIER.

Sworn to before me, the seventh day of August, 1845.

GEO. S. HILLARD,
Commissioner.

1962

Deposition of Thomas P. Pierce.

In the circuit court of the United States for the first circuit and district of Massachusetts.

Between ANNA TUFTS, plaintiff, and CHARLES TUFTS and EMERSON WHEELER, defendants. } In chancery.

Interrogatories to Thomas S. Pierce, of West Cambridge, in the county of Middlesex, yeoman.

1st. Are you acquainted with the parties to this suit, either and which of them; and how long have you known either and which of them?

2d. Whether or not you are acquainted with the homestead and other premises, formerly of Peter Tufts, jr., in Cambridgeport? How long have you known them?

3d. Whether or not you have ever hired any, and if any what, salt marsh, part of said premises of said Charles Tufts? If you have hired any such salt marsh of him, please say during what year you have hired the same; what rent you have paid every year; whether you have cut and carried away the grass therefrom in any, and if in any what, year.

4th. Whether or not said Charles Tufts gave you any bills or receipts for rent? If he did, please annex the same to your answers, or if you cannot find them, or do not choose to annex them, please say in whose name said bills or receipts are made; by said Charles Tufts on his own account, or as agent for any other person.

Lastly. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties in issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

Cross interrogatories to be proposed to Thomas S. Pierce, a witness to be examined on behalf of the defendants.

1st. How many years in the whole did you hire the premises inquired of in the third direct interrogatory? Did you not first hire them on a verbal lease? For what length of time did you hold them, if ever, under a verbal lease; and in what years or year? Did you not make the bargain for such verbal lease with said Anna Tufts? Did you not treat with her as having the authority to make such lease? Did you not, during such verbal lease, pay the rent to her? Did the said Charles in any way, during this time, interfere in the matter? Did you not agree with said Anna for the amount of the rent, and the terms thereof?

2d. Did you not afterwards take the premises inquired of under a written lease? If so, was it not in two parts, and was not one part thereof delivered to said Anna Tufts to hold? Did you not, in this case, also make the bargain for the rents and terms of the lease with

said Anna Tufts? Had you any thing, and if so what, to do with said Charles, in making the bargain for the rent? Did not the said Anna receive from you some part of the rent personally, to your knowledge? Were not the said Anna and Charles both present when the lease was made? And were you not then informed, or given to understand, that the said Anna had an interest in the premises, the same as before? Has not the last mentioned lease expired some time ago? And have you not, and when did you, cease to occupy the premises?

3d. Have you conversed with Charles Tufts and Solomon B. Morse, jr., or either and which of them, on the subject of the above suit or your testimony; and when, and where, and how many times?

4th. Did you not apply to the said Anna to purchase the said marsh land, or a portion, and what portion, of the premises; and if so, did she name any price which she would take for the same; or did you make her any offer, and what, for the same, and when? Why did you apply to her to purchase? Was you referred to her by any one; and, if so, whom; or was it because she was reputed to be the owner, or to have the disposal thereof, or some interest therein, or how otherwise?

RAND, WARREN & FISKE,
For plaintiff.

Answers of Thomas P. Peirce, to the interrogatories hereto annexed, on the part of the defendants.

1st. To the first interrogatory he says: I do not know Emerson Wheeler. I have known Mrs. Tufts and Charles Tufts for twenty years.

2d. To the second interrogatory he says: I have known the said premises and homestead for twenty years.

3d. To the third interrogatory he says: I hired about five acres of salt marsh, part of the said premises, of the said Charles Tufts, for five consecutive seasons, beginning in 1840. I paid thirty-five dollars each year, I think. I cut and carried away all the grass that grew on the marsh, during all those years.

4th. To the fourth interrogatory he says: Charles Tufts gave me receipts for rent, and I annex them hereto, marked A.

5th. To the fifth interrogatory he says: I know not.

Answers to cross interrogatories.

1st. To the first cross interrogatory he says: I hired them for five years. I first had them on a written lease for three years, and the last two years on a verbal lease. I had nothing to do with Mrs. Tufts in the business. I did not pay any rent to her to my recollection but once, according to the bill dated August 3d, 1842, hereto annexed. I did all my business with Charles. I did not agree with Mrs. Tufts for the amount of rent or the terms. When my lease expired, I made verbal agreements with Charles Tufts for each of the two succeeding years, and had nothing to do with her.

2d. To the second cross interrogatory he says: My lease was not in

two parts, but only in one. I made no bargain with her about the rent at any time, but all my bargains were made with Charles. I paid part of one bill to Mrs. Tufts, as before stated. Mrs. Tufts and Charles were both present when the lease was executed. There was something of this kind said by her at the time that Charles did her business for her. This gave me an impression that she had an interest in the premises. My lease expired in 1843, the first day of April. I occupied the premises for the last time last year.

3d. To the third cross interrogatory he says: I had a conversation with Charles Tufts about my testimony, last spring, in the street, at West Cambridge. I do not know Mr. Morse.

4th. To the *third* cross interrogatory he says: I never applied to Mrs. Tufts to purchase the said marsh land, or any part of the premises.

THOMAS P. PEIRCE.

Sworn to before me, the second day of August, 1845.

GEORGE S. HILLARD,
Commissioner.

Mr. Thomas P. Pierce, To Charles Tufts, Dr.

To rent of marsh, one year, in Cambridgeport - - $30 00

Received payment, ANNA TUFTS,
Per CHARLES TUFTS.

Cambridgeport, August 3d, 1842.

Mr. Thomas Pierce, To Charles Tufts, Dr.

August 1, 1844. To rent salt marsh, 1844 - - $35 00
Deduct for damage - - - 3 00

32 00

Received payment, CHARLES TUFTS.

Cambridge, August 21, 1843. Received of Mr. Thomas Pierce thirty-five dollars, for grass on salt marsh (about 5 acres) this year.

CHARLES TUFTS.

Cambridge, August 7th, 1841. Received of Mr. Pierce thirty-five dollars, being for rent of salt marsh for 1841.

CHARLES TUFTS.

Cambridge, August 11, 1840. Received of Tho's P. Pierce thirty-five dollars, being rent of salt marsh for one year.

CHARLES TUFTS.

Paper marked A, annexed to the deposition of Thomas P. Peirce.

GEO. S. HILLARD,
Commissioner.

Depositions of Nathan Fiske and Abraham Edwards.

Circuit Court of the United States for the first circuit and district of Massachusetts—In chancery.

Between ANNA TUFTS, plaintiff,
and
CHARLES TUFTS and Emerson Wheeler, defendants.

Interrogatories on behalf of the defendants, to be proposed to Nathan Fiske and Abraham Edwards, of Cambridge, in the county of Middlesex, gentlemen.

1st. Are you acquainted with the parties to this suit, either and which of them, and how long have you known them?

2d. Are you acquainted with the homestead and premises, formerly of Peter Tufts, jun., in Cambridgeport, and since his death occupied by said Anna Tufts?

3d. Are you now, or have you at any time, and, if any, when, been a deputy of the sheriff of the county of Middlesex?

4th. Whether or not you ever had any execution or writ against said Anna Tufts; if you had, when was it, in whose favor, and what was the amount of the debt or claim, as nearly as you can recollect? Whether or not you made any, and if any, what, effort to collect the said execution, or obtain security on said writ? Whether or not, while you had such writ or execution, and were endeavoring to collect it, you made any, and if any, what, inquiries of said Anna Tufts as to her property and means of payment, and as to the ownership of the said premises occupied by her? What answer did she give to such inquiries, if made, or what statements, if any, did she make in answer to such inquiries, or otherwise, as to her property and means of payment, or who did she say owned said premises; and what interest or estate, or right as tenant, did she represent herself as having therein? Please state the whole conversation; and if you ever had more than one writ or execution against her, please state what was said by her at each time, if she said any thing more than once as to the ownership of said premises, and as to her means of paying her debts.

5th. What has been the pecuniary credit of said Anna Tufts since the year 1828 to the present time, and what has been her reputation as to solvency and means of payment?

6th. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

S. E. SEWALL,
For defendants.

Cross interrogatories to be administered to Nathan Fiske and Abraham Edwards, witnesses proposed to be examined on the part and behalf of the defendants.

1st. If, in answer to the fourth direct interrogatory, you speak of any conversation had with said Anna Tufts, or of any declarations made by her, please to declare whether you can now recollect the precise words she used; and whether you undertake to, and do, state and set forth in your testimony her precise words; and whether you can recollect, and do set forth, the whole which she said touching the subject of that interrogatory; whether you can recollect and state what immediately preceded and followed that part, if any, which you say is her own precise language; and when, where, on what occasion, and in what connection was it; and who was present when such conversation or declaration was had or made? Did she not say to you that, if she could be let alone, she hoped or expected at some time to be able, or have enough to pay all her debts, or something, and what, of the like import or effect? If she did tell you that the title was in Charles, so that no attachment or levy at law could be made, did she not inform you that there was some trust or equitable interest for her benefit existing?

2d. Are not the premises mentioned in the second direct interrogatory, and have they not been ever since the death of said Peter Tufts, or before or ever since you have known them, well known in Cambridgeport and the vicinity; and is it, and has it not been, a matter of general, or what, notoriety in said Cambridgeport and the vicinity, that the said Anna has been in the possession and occupation of the same premises ever since the said Peter's death, or ever since you have known them; and how long have you known them?

3d. Do you know, or have you heard from the said Wheeler, whether any person or persons, and who, if any, were concerned with him in his pretended purchase of part of the said premises? If so, please to state what you know, or have so heard, relative thereto.

4th. If, in answer to the fourth direct interrogatory, you say that you made any inquiry of the said Anna as to her property or means of payment, please to declare whether it was within the scope of your business with her to, or did you, inquire as to any trust or equitable interest, not being a mortgage, nor yielding any income, nor being the subject of attachment, or of a levy by virtue of an execution? Were not your inquiries, if you say you made any, confined to such property as could be the subject of attachment, either directly or by foreign attachment, or trustee process, or of a levy by virtue of an execution? Had you any business to, or did you, inquire into her affairs, under color or by virtue of any process you had against her, or otherwise, any farther than to ascertain whether she had any property whereof a creditor might avail himself for security or satisfaction of his demand? Did she not tell you, that although she had nothing now which could be taken by legal process to satisfy her creditors' demands, yet that she ex-

pected or hoped, some time or other, to have property, and be able to pay all her creditors, or something of similar import or effect?

5th. Have you seen and conversed with Charles Tufts and Solomon B. Morse, jun., or either, and which of them, and when, and where, and how often, or how many times, touching subjects of the above suit, or your testimony?

6th. Did not the said Anna, some time in the year 1843, or thereabout, and at what time, or some one on her behalf, consult you, the said Edwards, or said Fiske, about taking the benefit of the Bankrupt act; and if yea, did you not advise her, or the person who applied on her behalf, not to take the benefit of the said act; and did you not state to her, or the person who applied on her behalf, that she ought not to take the benefit of that act, because she would in such case be obliged to give up, for the benefit of her creditors, all her claims to the said estate and premises, or something, and what, of similar import or effect?

RAND, WARREN & FISKE,
For plaintiff.

Answers of Nathan Fiske to the interrogatories hereto annexed on the part of the defendants.

1st. To the first interrogatory he says: I am acquainted with all the parties to this suit, and have known them from fifteen to twenty years.

2d. To the second interrogatory he says: I am acquainted with the said premises.

3d. To the third interrogatory he says: I am now, and have been for ten years, a deputy of the sheriff of the county of Middlesex.

4th. To the fourth interrogatory he says: I had a writ against the said Anna Tufts, in August, 1841; it was in favor of a man named Matthews. The ad damnum in the writ was two hundred dollars. In August, 1842, I had another writ against her, at the suit of Walter R. Mason and Hiram Brooks. I think the ad damnum was fifteen hundred dollars. In January, 1843, I had another writ against her, in favor of a man named Calhern. This was a justice's writ, and the demand was not far from twenty dollars. Upon that writ execution issued, and came into my hands soon after. In January, 1844, I had another execution against her, Badger *vs.* Tufts, the amount of which was from fifty to sixty dollars. I have made attempts in every possible way to collect the said executions, and obtain security on the said writs, by endeavoring to ascertain if she had any property to be attached or levied upon; also by inquiring of her in particular. I have asked her as to her means of payment, and as to the ownership of the place occupied by her. She has told me that she had no means of payment; that she did not own a dollar's worth on the place, but that it all belonged to Charles. I have had a number of conversations with her on the occasions of these demands. She always pleaded poverty. She said she had no means to help herself with. She also went so far, at one interview, as to ask me if I did not think it was best for her to go

into bankruptcy, as it was out of her power to pay any debts. These several conversations were of substantially the same tenor; but I cannot specify the particular conversations, nor remember all that was said.

5th. To the fifth interrogatory he says: I should think that within twelve years past Mrs. Tufts' credit, in a pecuniary point of view, was not good. Within the same period she has been considered insolvent.

6th. To the sixth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: I cannot recollect the precise words used by the said Anna Tufts, nor all that she said. These conversations were held at her house, at various times, the dates of which I cannot give, and on the occasions of having demands against her put into my hands. Sometimes her daughter Deborah was present at these conversations, and sometimes we were alone. She has said that, if people would let her alone, she hoped she should be able to pay them. She never informed me, to my recollection, that there was any trust or equitable interest for her benefit existing in the said estate.

2d. To the second cross interrogatory he says: The said premises have been well known in Cambridgeport and its vicinity for over twenty years, and it has been a matter of general notoriety that the said Anna Tufts has been in the occupation of the said premises since her husband's death.

3d. To the third cross interrogatory he says: I have understood that Mr. Chamberlain and Mr. Joseph A. Holmes were interested with Mr. Wheeler in his purchase, but I do not remember to have heard so from Mr. Wheeler himself, and I do not know the fact of my own knowledge.

4th. To the fourth cross interrogatory he says: I made no specific inquiries as to any such trusts or equitable interests as are inquired of. My object was to ascertain if there was any property of any kind which I could take hold, and she said there was none. I had no other purpose, and my inquiries were general, as to whether she had any property which I could attach or levy upon. Nothing was said as to any equitable interests or rights she might have. She said that, if people would let her alone, she hoped she should be able to pay them some time or other.

5th. To the fifth cross interrogatory he says: I have never conversed with Charles Tufts or Solomon B. Morse, jr., touching this suit or my testimony.

6th. To the sixth cross interrogatory he says: Some time in 1843, I think it was, Mrs. Tufts said to me that she had thought of taking the benefit of the act. I cannot state whether it was the Bankrupt law of the United States, or the Insolvent law of Massachusetts. I told her I thought she had better do it. I did not state to her that she ought not to take the benefit of the act, because she would be obliged to give up for the benefit of her creditors all her claims to the said estate, nor any thing of the kind. NATHAN FISKE.

pected or hoped, some time or other, to have property, and be able to pay all her creditors, or something of similar import or effect?

5th. Have you seen and conversed with Charles Tufts and Solomon B. Morse, jun., or either, and which of them, and when, and where, and how often, or how many times, touching subjects of the above suit, or your testimony?

6th. Did not the said Anna, some time in the year 1843, or thereabout, and at what time, or some one on her behalf, consult you, the said Edwards, or said Fiske, about taking the benefit of the Bankrupt act; and if yea, did you not advise her, or the person who applied on her behalf, not to take the benefit of the said act; and did you not state to her, or the person who applied on her behalf, that she ought not to take the benefit of that act, because she would in such case be obliged to give up, for the benefit of her creditors, all her claims to the said estate and premises, or something, and what, of similar import or effect?

RAND, WARREN & FISKE,
For plaintiff.

Answers of Nathan Fiske to the interrogatories hereto annexed on the part of the defendants.

1st. To the first interrogatory he says: I am acquainted with all the parties to this suit, and have known them from fifteen to twenty years.

2d. To the second interrogatory he says: I am acquainted with the said premises.

3d. To the third interrogatory he says: I am now, and have been for ten years, a deputy of the sheriff of the county of Middlesex.

4th. To the fourth interrogatory he says: I had a writ against the said Anna Tufts, in August, 1841; it was in favor of a man named Matthews. The ad damnum in the writ was two hundred dollars. In August, 1842, I had another writ against her, at the suit of Walter R. Mason and Hiram Brooks. I think the ad damnum was fifteen hundred dollars. In January, 1843, I had another writ against her, in favor of a man named Calhern. This was a justice's writ, and the demand was not far from twenty dollars. Upon that writ execution issued, and came into my hands soon after. In January, 1844, I had another execution against her, Badger *vs.* Tufts, the amount of which was from fifty to sixty dollars. I have made attempts in every possible way to collect the said executions, and obtain security on the said writs, by endeavoring to ascertain if she had any property to be attached or levied upon; also by inquiring of her in particular. I have asked her as to her means of payment, and as to the ownership of the place occupied by her. She has told me that she had no means of payment; that she did not own a dollar's worth on the place, but that it all belonged to Charles. I have had a number of conversations with her on the occasions of these demands. She always pleaded poverty. She said she had no means to help herself with. She also went so far, at one interview, as to ask me if I did not think it was best for her to go

into bankruptcy, as it was out of her power to pay any debts. These several conversations were of substantially the same tenor; but I cannot specify the particular conversations, nor remember all that was said.

5th. To the fifth interrogatory he says: I should think that within twelve years past Mrs. Tufts' credit, in a pecuniary point of view, was not good. Within the same period she has been considered insolvent.

6th. To the sixth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: I cannot recollect the precise words used by the said Anna Tufts, nor all that she said. These conversations were held at her house, at various times, the dates of which I cannot give, and on the occasions of having demands against her put into my hands. Sometimes her daughter Deborah was present at these conversations, and sometimes we were alone. She has said that, if people would let her alone, she hoped she should be able to pay them. She never informed me, to my recollection, that there was any trust or equitable interest for her benefit existing in the said estate.

2d. To the second cross interrogatory he says: The said premises have been well known in Cambridgeport and its vicinity for over twenty years, and it has been a matter of general notoriety that the said Anna Tufts has been in the occupation of the said premises since her husband's death.

3d. To the third cross interrogatory he says: I have understood that Mr. Chamberlain and Mr. Joseph A. Holmes were interested with Mr. Wheeler in his purchase, but I do not remember to have heard so from Mr. Wheeler himself, and I do not know the fact of my own knowledge.

4th. To the fourth cross interrogatory he says: I made no specific inquiries as to any such trusts or equitable interests as are inquired of. My object was to ascertain if there was any property of any kind which I could take hold, and she said there was none. I had no other purpose, and my inquiries were general, as to whether she had any property which I could attach or levy upon. Nothing was said as to any equitable interests or rights she might have. She said that, if people would let her alone, she hoped she should be able to pay them some time or other.

5th. To the fifth cross interrogatory he says: I have never conversed with Charles Tufts or Solomon B. Morse, jr., touching this suit or my testimony.

6th. To the sixth cross interrogatory he says: Some time in 1843, I think it was, Mrs. Tufts said to me that she had thought of taking the benefit of the act. I cannot state whether it was the Bankrupt law of the United States, or the Insolvent law of Massachusetts. I told her I thought she had better do it. I did not state to her that she ought not to take the benefit of the act, because she would be obliged to give up for the benefit of her creditors all her claims to the said estate, nor any thing of the kind. NATHAN FISKE.

Sworn to before me, the twenty-second day of July, 1845.
GEO. S. HILLARD,
Commissioner.

Answers of Abraham Edwards to the interrogatories hereto annexed on the part of the defendants.

1st. To the first interrogatory he says: I know the parties to this suit, and have known them for twelve years and upwards.

2d. To the second interrogatory he says: I am acquainted with the said premises and homestead.

3d. To the third interrogatory he says: I was a deputy of the sheriff of Middlesex from 1831 to 1835, or thereabouts.

4th. To the fourth interrogatory he says: On the 23d day of January, 1832, I received an execution against Mrs. Anna Tufts, in favor of one John Russell. The amount of the execution was one hundred and twenty-six $\frac{58}{100}$ dollars. I called on Mrs. Tufts two or three times in order to effect a settlement of it. She stated to me that she was wholly unable to pay it; that when she gave the note on which the execution was founded, she stated to the person to whom she gave it that it was no better than a piece of waste paper. She said she had no property; that she had never had any thing from Mr. Tufts' estate, and she did not know that she ever should have. She said she owned or held several pews in the Universalist Church in Cambridgeport, and if the plaintiff would receive those, as far as they would go towards the payment of the debt, he might take them. I do not recollect that I asked her as to the ownership of the estate on which she lived. I had no other process against her. I called two or three times to see her, and our conversation was substantially the same at each interview. She said nothing as to any ownership or interest in the premises on which she lived, and I made no inquiries as to it.

5th. To the fifth interrogatory he says: As far as I know any thing about it, her credit and reputation as to solvency has been bad.

6th. To the sixth interrogatory he says: I know not.

Answers to cross interrogatories.

1st. To the first cross interrogatory *she* says: I think I recollect and have stated the precise words used by Mrs. Tufts. I think I have set forth all that she said touching the subject of the said interrogatory. We had no other conversation *other* than I have stated. No one was present but Mrs. Tufts and myself. She did not say that if she were let alone she hoped or expected at some time to be able to pay all her debts, or any thing of the kind. She said nothing about the title of the estate being in Charles, or of her having any interest therein. I conversed with her at her house, immediately after the execution was put into my hands.

2d. To the second cross interrogatory he says: These premises have been well known in Cambridgeport and its vicinity, ever since the death

1966.

of the said Peter Tufts, and it has been a matter of general notoriety that she has been in the possession and occupation of them.

3d. To the third cross interrogatory he says: I do not know, and have never heard from the said Wheeler, any thing upon the subject.

4th. To the fourth cross interrogatory he says: My inquiries were general, as to her property and means of paying the debt. My only purpose was to collect the execution, and I was in search of property available for that purpose. I made no inquiries as to any equitable interest she might have which was not the subject of attachment. She did not tell me that she expected or hoped at some time to be able to pay her creditors, or any thing of the kind.

5th. To the fifth cross interrogatory he says: I have had no conversation with either Charles Tufts or Solomon B. Morse, jr., on the said suit or my testimony.

6th. To the sixth cross interrogatory he says: She never consulted me, nor did any one on her behalf, about taking the benefit of the Bankrupt act. ABRAHAM EDWARDS.

Sworn to before me, the twenty-fifth day of July, 1845.

GEO. S. HILLARD,
Commissioner.

UNITED STATES OF AMERICA,
District of Massachusetts, city of Boston:

On the several days as are hereinbefore mentioned, the aforesaid deponents came before me, and being by me carefully sworn to tell the truth, the whole truth, and nothing but the truth, they gave the foregoing depositions and subscribed the same in my presence; the said depositions having been reduced to writing by me. These depositions were taken by virtue of the commission hereto annexed, and to be used in the cause therein mentioned, and all the directions contained in the said commission were carefully observed by me in the execution thereof.

GEO. S. HILLARD,
Commissioner.

Commissioner's fees - - - -	$20 00
Deponents' do. - - - -	7 50
Travel - - - - - -	80

Deposition of Joseph A. Holmes.

Circuit court of the United States, district of Massachusetts, in chancery.

ANNA TUFTS
vs.
CHARLES TUFTS and EMERSON WHEELER. } In equity.

Interrogatories to Joseph A. Holmes, of Cambridge, a witness produced to be examined in behalf of the defendants in the above entitled suit.

1st. Whether or not are you acquainted with the parties to the above entitled suit, or either of them?

2d. Whether or not are you acquainted with the homestead farm of the late Peter Tufts, junior, in Cambridgeport, and with that part of said farm lately conveyed by Charles Tufts, one of said defendants, to Emerson Wheeler, or the other defendant?

3d. Whether or not were you interested in any and what way, in the purchase of a part of said farm by said Wheeler of said Tufts, at the time of the making of the same; and if yea, do you still continue to be interested in said purchase; and if not, how have you ceased to be interested; and to whom, and for what consideration, have you conveyed your said interest; and who were all the persons interested in the original purchase of said Charles Tufts?

4th. Whether or not have you now any interest, directly or indirectly, or in any way whatever, in the event of the above entitled suit?

5th. Whether or not did you see the deed made by said Charles Tufts to said Wheeler, of the part of said farm aforesaid, at or about the time the same was made and delivered, and where and in whose possession did you see the same?

6th. Whether or not did you, at any time, and when, as near as you can state, have any conversation with Anna Tufts, the complainant, in regard to the crops on the said land conveyed by said Charles Tufts to said Wheeler; and, if yea, when was said conversation had, and who was present, and what occasioned you to have such conversation? Please state the circumstances particularly.

7th. Whether or not did you have more than one conversation with said Anna, in regard to said crops?

8th. Whether or not was the first conversation you had with said Anna, in regard to said crops, and the first conversation you had with her, in which any mention was made of said sale by said Charles Tufts to said Wheeler, before or after the deed of said land by said Charles to said Wheeler was made and executed and delivered by said Charles?

9th. Whether or not are you sure and certain as to the first conversation you had with said Anna as to said crops, and the first conversation you had with her in which any reference was made to said sale by said Charles to said Wheeler, being before or after the deed of said Charles to said Wheeler was executed and delivered? And if so, please state distinctly, whether said conversation was before or after said deed was made and delivered; and what enables you to be thus sure and certain?

10th. When did you first see the said deed of said Charles to said Wheeler, and in whose possession did you first see the same; and was the same then fully executed, acknowledged, and delivered; and was this before or after you first had any conversation with said Anna in relation to said crops, or in relation to a conveyance by said Charles to said Wheeler, and are you certain as to the fact of its being before or after?

11th. When you first saw said deed of said Charles to said Wheeler, did you see any other deed or lease; and if so, what? And please annex the same to your answers, if in your power to do so.

12th. Whether or not had you at any time before the deed of said Charles Tufts to said Wheeler was made, executed, acknowledged and

delivered by said Charles, any knowledge, information, or belief, that said Anna had any right to, or claim in law or equity to the said land conveyed by said Charles Tufts to said Wheeler; or had any of the persons interested in the purchase of said land any knowledge, information, or belief, of any such right to, or claim on, said land by said Anna, so far as you know or believe?

13th. Whether or not have you purchased any gravel from said land, conveyed by said Charles Tufts to said Wheeler, of said Anna or said Charles, or which of them, and when? Please state fully in relation to any and all such purchases.

Lastly. Whether or not do you know anything else of use to the defendants? If yea, please state the same fully.

RICHARD FLETCHER,
For defendants.

The plaintiff objects to the foregoing interrogatories, because the last interrogatory is not in the form required by the 71st rule of the rules for the courts of equity of the United States, promulgated by the Supreme Court of the United States, January term, 1842; and to so much of the twelfth interrogatory, in particular, as inquires as to the knowledge, information, or belief of other persons than the witness, and claims and reserves the right to move that all testimony taken thereunder may be suppressed.

RAND, WARREN & FISKE,
For plaintiff.

Cross interrogatories.

The plaintiff, not waiving her objections to the direct interrogatories to Joseph A. Holmes, a witness proposed to be examined on the behalf of the defendants, but insisting on the same, and on the right to move that all testimony which may be taken thereunder may be suppressed, files *de bene esse* the following cross interrogatories:

1st. Has not the said Anna Tufts been in possession of the homestead farm referred to in the first part of the second direct interrogatory, ever since the death of Peter Tufts, therein mentioned? Has she not carried on the farm and improved the same since that period? Has she not supported, maintained, and educated her children and family, and the said Charles Tufts, from the produce and income thereof? Has she not made repairs and additions in and to the buildings thereon? Has she not planted or set out ornamental or fruit trees thereon? Has she not dealt therewith, as far as you know, as if she were or had been the owner thereof? Is it not, or has it not been, a matter of notoriety, for many years, in Cambridgeport and the vicinity, that the said Anna was in possession of the premises, carrying on the farm there, and receiving the income and profits thereof in the same manner as if she was the proprietor thereof?

2d. Have you not bought sand or gravel of the said Anna, since the year 1840, or at some time, and when? Did you not agree with her to give her credit therefor in account? And had she not then an account

open with you; and did you not give her credit in your books therefor? Have you not dealt with the said Anna for a long and what time; and what has been your business or occupation; and what dealings have you had with her? Did you not succeed Mr. Hastings in business; and did not the said Anna, and for what length of time, deal, and in what way, with said Hastings? And was you not a clerk, or acting in some capacity, in the store of said Hastings, when the said Anna dealt with him?

3d. If you say that you were interested in the purchase of a part of said farm by said Wheeler of said Charles Tufts, as inquired after in the third direct interrogatory, and that you have ceased to be interested therein, declare by what contract, or deed, or instrument, and how you have parted with your interest; and annex all the paper writings relative thereto, or true copies thereof, to your deposition, and state when and where they were executed. And whether there be not some other and what, written or verbal agreement, or understanding, between you and the other purchasers or parties, or party interested, touching or concerning the premises? Is not there some understanding, that in some event, or under some circumstances, or at some time, there shall be a reconveyance to you of the interest you have parted with, or some portion thereof, or that you shall have some interest in, or benefit from, the premises, or some part thereof? And at whose suggestion or request? And when did you convey away your interest in the premises? And for what consideration? And how was the same paid or secured to you? And why or for what purpose did you part therewith? Was it not said or suggested by some one or more of the parties interested in the said purchase of said Charles, before the delivery of said deed by him to said Wheeler, that the said Anna Tufts had, or might have, or make some claim to some interest in the said farm or premises? Was not the claim, or possible claim of the said Anna to some interest in the premises, a matter of conversation, or discussion, among or by the parties interested in said purchase, or some of them, before it was made, or after the contract, and before the delivery of the deed of the part of said farm by said Charles to said Wheeler? Why was the deed made to the said Wheeler, and not to the other persons, if any were interested therein? Was there any and what conversation among or by the parties relative to this matter? By whom was the deed drawn and prepared for execution? And where was it executed? And who was present thereat? Was there not a contract in writing, touching the purchase made before the deed was delivered? By whom was this contract drawn? And when and where was it executed? And who was present?

4th. If you say you called on said Anna about any crops, or other thing on the premises, declare whether the said Anna did not then inform you that said Charles had no right, authority, or business to sell or convey any part of the premises, or something to that effect, or of similar import; and whether you did not inform the said Wheeler, and the other parties or party interested, or some of them thereof; when and where, and by whom, was it first suggested or proposed to you to pur-

chase or have an interest in the purchase of the premises; has any part of the purchase money been paid to said Charles; if so, what part, in what manner, at what time precisely, by whom, and where and by whom was the money obtained and contributed to pay the same; has the said Charles at any time, and if so when, and where, applied to the parties interested, or any of them, in the purchase, to rescind the bargain; if so, did he assign any, and what, reason therefor?

RAND, WARREN & FISKE,
For plaintiff.

Answers of Joseph A. Holmes to the interrogatories hereto annexed on the part of the defendants.

1st. To the first interrogatory he says: I am acquainted with all the parties.

2d. To the second interrogatory he says: I am acquainted with the said homestead farm, and with that part of it lately conveyed by Charles Tufts to the said Wheeler.

3d. To the third interrogatory he says: I was interested in the said Wheeler's purchase at the time it was made; I was to have one-fourth part of the purchase, and the like proportion of the profits, if any; I am not now interested in the said purchase; I have sold out all my interest to the said Wheeler, H. M. Chamberlain, and Wm. Hovey, jr.; these were all the persons originally interested in the purchase beside myself; I sold out for eight hundred and seventy-five dollars; being three hundred and seventy-five dollars, my proportion of the original price paid down, and a bonus of five hundred dollars.

4th. To the fourth interrogatory he says: I have no interest in any way, directly or indirectly, in the event of this suit.

5th. To the fifth interrogatory he says: I saw the said deed from Charles Tufts to the said Wheeler, on the day when it was made and delivered at my counting-room, in the possession of Mr. Chamberlain.

6th. To the sixth interrogatory he says: On the sixteenth or seventeenth of last September, I think, I called on Mrs. Tufts, at the request of Mr. Wheeler and Mr. Chamberlain, to see if she would sell the crops standing on the land purchased of Charles; I found her at her house; her daughter, Mrs. Dowell, was present a part of the time, and Peter E. Tufts may have been present for a few moments when I first got there; Mrs. Tufts referred me to Peter E. Tufts to treat about the crops; I was there about ten or fifteen minutes, and the sale was talked about; I then left her and went in search of Peter E. Tufts, whom I found on the land; I proposed to purchase the crops, but he declined making any bargain; Mrs. Tufts referred me to him as being the owner of the crops; Peter E. Tufts said he should have the crops off in a short time.

7th. To the seventh interrogatory he says: I had but one.

8th. To the eighth interrogatory he says: The only conversation I had with her in regard to the crops and the sale, was after the deed of said Charles Tufts to said Wheeler was made, executed, and delivered by the said Charles.

9th. To the ninth interrogatory he says: I am sure that the first and only conversation I had with her about the crops and the sale was after the making and delivery of the deed; I am sure, because we took care not to go upon the land to do anything until we had got the deed.

10th. To the tenth interrogatory he says: I first saw the deed in the possession of Mr. Chamberlain, in my counting-room; it was on the day when it was executed and delivered; it was then fully executed, acknowledged, and delivered; I am certain that this was before any conversation with Mrs. Tufts in regard to the crops and the conveyance by Charles.

11th. To the eleventh interrogatory he says: I saw a lease from Charles Tufts to Arkerson, I think, at the same time; it is not in my possession now; I will get it and annex it if I can; I now annex a copy thereof, marked A.

12th. To the twelfth interrogatory he says: Before the deed of Charles Tufts to said Wheeler was made, executed, acknowledged, and delivered, I had no knowledge, information, or belief that Mrs. Tufts had any right to, or claim in law or equity to, the land conveyed by the said deed; nor had any of the persons interested in the purchase of said land any knowledge, information, or belief of any such right or claim, so far as I know or believe.

13th. To the thirteenth interrogatory he says: In 1840, Mrs. Tufts was indebted to my firm on account; I wanted some gravel, and I engaged some of her; after receiving it, I settled with her, and credited her with the price of the gravel; in 1841, I had some more gravel of her; in 1842, I had some more gravel from the place; in 1842, Charles brought a bill to me of the gravel I had had in 1841 and 1842; I told him that I expected that was to be credited to Mrs. Tufts in account; he said she had no business to sell it, and had nothing to do with it, and I paid him his bill.

14th. To the fourteenth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: I know that Mrs. Tufts has occupied the said premises for several years, and this fact has been for several years a matter of notoriety in Cambridgeport; but I have no knowledge as to the other matters inquired of in this interrogatory.

2d. To the second cross interrogatory he says: I did buy gravel of Mrs. Tufts in 1840, 1841, and 1842, as I have before stated; I did agree with her to give her credit therefor in account, and did give her credit for the first year's purchase; I have dealt with Mrs. Tufts, more or less, for several years; I have kept a West India goods store; I have sold her goods; I succeeded Mr. Hastings; I have no recollections of her dealings with him.

3d. To the third cross interrogatory he says: I assigned my interest in the said purchase by a paper writing, a copy of which is hereto annexed, marked B; it was executed on the day of its date; there was no understanding or agreement between me and the said purchasers, ex-

cept an obligation of indemnity on their part, a copy of which is hereto annexed, marked C; there is no understanding that in any event there shall be a reconveyance to me of my interest, or any part thereof, or that I shall have any interest or benefit from the premises; I made the conveyance at the suggestion and request of the persons interested with me; the date and the consideration I have already stated; I received a note, payable in sixty days, for five hundred dollars; also a note for three hundred and seventy-five dollars, payable in twelve months, with interest, both signed by Wheeler, Chamberlain, and Hovey; I parted with it, because they made me a fair offer, and because my evidence might be of importance to them, and I was willing to go out of the case in order that they might have it; it was not said or suggested by any one of the parties interested in the said purchase of said Charles, to my knowledge, before the delivery of his deed, that Mrs. Tufts had, or might have, or make some claim to some interest in the premises, and I have no recollection that any such claim, or possible claim of hers, was a matter of discussion and conversation among the parties interested in the purchase before it was made, or after the contract and before the delivery of the deed; it was thought better that the deed should be in Wheeler's name, as it would be more convenient to have one grantor in any conveyance to future purchasers; he was also the only person known to Charles Tufts in the business, as we thought that he, being a farmer, could buy of Charles on more favorable terms than we, as it would be supposed that he wanted it for tillage or farming purposes; it was talked over among the parties, and this was the substance of what was said; the deed was drawn by Charles Tufts, and was executed at Charles' house; H. M. Chamberlain was present at the execution, as appears from his name attached as a witness; there was a contract in writing, touching the purchase, made before the deed was delivered; it was drawn by Mr. Chamberlain; it was executed at Charles' counting-room, as I was told, on Aug. 31, 1844; I don't know who was present.

4th. To the fourth cross interrogatory he says: Mrs. Tufts said that Charles ought not to have sold it, or she thought he ought not to have sold it; that it had been kept along in the family, and she supposed it would be for the benefit of the family, but I did not understand her to say that he had no right, authority, or business to sell; I told Mr. Hovey and Mr. Chamberlain of the conversation; the idea of making the purchase was first suggested by me to Mr. Chamberlain, in Cambridge, some time last summer, and by him communicated to the other parties in interest; fifteen hundred dollars were paid to Charles when the deed was given; it was contributed equally by the parties interested, and put into Wheeler's hands, and by him given to Charles, as I was informed and have no doubt, though I did not see it paid: Charles Tufts has not applied to any of the parties to rescind the bargain, to my knowledge.

JOS. A. HOLMES.

Sworn to before me, the ninth day of August, 1845.

GEO. S. HILLARD, *Commissioner*.

This indenture, made this twenty-sixth day of June, in the year of our Lord one thousand eight hundred and forty-three, witnesseth: That Charles Tufts, of Cambridge, in the county of Middlesex, does hereby lease, demise, and let unto James Arkerson & Co., of said Cambridge, a certain piece of land in said Cambridge, and situated as follows: Adjoining land of Wm. Arkerson, and on which a cordage manufactory is being erected, beginning near the middle of said factory, and taking a piece of land fifty feet by one hundred feet, and containing five thousand square feet, for the purpose of placing a building thereon, as an addition to the said cordage manufactory.

To hold for the term of five years from the twenty-sixth day of June, 1843, yielding and paying therefor the rent of fifteen dollars annually. And the said lessees do promise to pay the said rent in annual payments as above, and to quit and deliver up the premises to the lessor, or his attorney, peaceably and quietly, at the end of the term, in as good order and condition, reasonable use, and wearing thereof, fire and other unavoidable casualties excepted, as the same now are, or may be put into by the said lessor, and to pay the rent, as above stated, during the term, and for such further time as the lessees may hold the same; and the said lessees do agree not to assign this lease, nor underlet to any other person, nor make any alteration, without the consent of the said lessor being first obtained in writing, allowing thereof; and it shall be lawful for the said lessor, at seasonable times, to enter, view, and make improvements, and to expel the lessees, if they shall fail to pay the rent as aforesaid, or make or suffer any strip or waste thereof.

JAMES ARKERSON & CO.
CHARLES TUFTS.

Signed in presence of—
WILLIAM H. HAYDEN.

Paper marked A, annexed to the deposition of Jos. A. Holmes.
GEO. S. HILLARD, *Commissioner.*

In consideration of a sale of the within named property to Emerson Wheeler, of Brighton, I hereby assign and transfer to him this lease, with all the rights and privileges to the same belonging, and I do hereby constitute and appoint the said Wheeler my true and lawful attorney for me, but to his own use, to do all acts and things, at his own expense, which may be necessary for the full enjoyment of the premises.

Witness my hand this ninth day of September, A. D. 1844.
CHARLES TUFTS.

Attest:
H. M. CHAMBERLAIN.

Know all men by these presents, that I, Joseph A. Holmes, of Cambridge, in the county of Middlesex, in consideration of eight hundred and seventy-five dollars to me paid by Emerson Wheeler, of Brighton, in said county, Henry M. Chamberlain, and William Hovey, junior, of said Cambridge, the receipt whereof is hereby acknowledged, do

hereby release, and forever quit claim unto the said Wheeler, Chamberlain, and Hovey, all my right, title, and interest, both in law and in equity, in and to a certain tract of land, and in and to the purchase thereof, situated on Magazine street, in Cambridgeport, containing twelve acres, more or less, being a part of the homestead farm of the late Peter Tufts, &c., and being the same tract of land which Charles Tufts conveyed to Emerson Wheeler by deed dated the ninth day of September now last past; which deed is recorded in the Middlesex registry of deeds, and reference is here made to said records for a description of said tract of land.

Witness my hand and seal, this twenty-sixth day of July, in the year of our Lord one thousand eight hundred and forty-five.

JOSEPH A. HOLMES, and seal.

Executed and delivered in presence of—
ISAAC C. HOLMES.

Paper marked B, annexed to the deposition of Jos. A. Holmes.
GEO. S HILLARD, *Commissioner*.

[COPY.]

Know all men by these presents, that, in consideration that Joseph A. Holmes, of Cambridge, has this day sold to us all his interest in the purchase of twelve acres of land in Cambridgeport, being a part of the homestead of the late Peter Tufts, jr., being the same land which Charles Tufts conveyed to Emerson Wheeler on the ninth day of September, now last past, we do hereby promise and agree to indemnify and save the said Holmes harmless from all costs and payments, in consequence of said conveyance from Charles Tufts to said Wheeler, and for which said Holmes is or may be liable on account of any suit or suits, either in law or equity, resulting from said conveyance to said Wheeler.

Witness our hands and seals, this twenty-sixth day of July, A. D. eighteen hundred and forty-five.

EMERSON WHEELER, [SEAL.]
H. M. CHAMBERLAIN, [SEAL.]
Attest: WILLIAM HOVEY, JR. [SEAL.]
ISAAC C. HOLMES.

Paper marked C, annexed to the deposition of Joseph A. Holmes.
GEO. S. HILLARD, *Commissioner*.

Deposition of John M. St. Clair.

Circuit court of the United States, for the first circuit and district of Massachusetts.—In chancery.

Between ANNA TUFTS, plaintiff,
and
CHARLES TUFTS and EMERSON WHEELER, def'ts.

Interrogatories to be proposed to John M. St. Clair, of Cambridge, in said district, a witness to be produced and examined in behalf of the defendants in the above suit.

1st. Whether or not are you acquainted with the parties in the above suit?

2d. Whether or not are you acquainted with the homestead farm of the late Peter Tufts, junior, of Cambridgeport, and with that part of it lately conveyed by said Charles Tufts, one of the defendants, to Emerson Wheeler, the other defendant?

3d. Whether or not have you ever purchased gravel of said Charles Tufts, and taken by you from the land conveyed by him to said Wheeler? And if yea, when, and in what quantities, and how much have you paid said Charles for the same? Please state fully and particularly as to time or times, and circumstances.

4th. Whether or not do you know any thing else of importance to the defendants? If yea, please state the same fully.

RICHARD FLETCHER,
For defendants.

The plaintiff objects to the above interrogatories as not containing a last interrogatory in the form required by the 71st rule of the Rules of Practice for the Courts of Equity of the United States, promulgated by the Supreme Court of the United States, January term, 1842, and reserves the right and liberty to move that all testimony that may be taken thereunder, if any, may be suppressed.

RAND, WARREN & FISKE,
For plaintiff.

Cross interrogatories.

The plaintiff, not waiving but insisting on the objection taken to the direct interrogatories proposed to be administered to John M. St. Clair, a witness proposed to be examined on the part and behalf of the defendants, and reserving the right and liberty to move that the testimony which may be taken under such direct interrogatories may be suppressed for the reason assigned, nevertheless files *de bene esse* the following cross interrogatories:

1st. Has not the said Anna Tufts been in possession of the homestead farm, referred to in the first part of the second direct interrogatory, ever since the death of the said Peter Tufts, therein mentioned? Has she not carried on the farm, improved the same, made repairs and additions to the buildings, and planted or set out fruit and ornamental trees thereon, and dealt with the same in the same manner as if she were the owner thereof?

2d. Have you not bargained with the said Anna Tufts for sand or gravel from the premises? Have you not bought sand or gravel of her from the premises for many years, and long, and how long, before the year 1834, and in what years since that time? Did not the said Charles Tufts receive the pay for her, or transact the business for her, so far as it regarded the collecting of the moneys? Did you not procure gravel of the said Anna, from the said premises, for other persons; and if so, for whom, and when, as nearly as you can recollect?

3d. Has it not been for many years a matter of notoriety in Cambridgeport and the vicinity of the premises, that the said Anna was in possession of the premises, occupying and improving the same, and dealing therewith as if she were the owner thereof? Has she not supported, maintained, and educated her children and family, and among others the said Charles, by the produce and income thereof?

4th. If you say that you have paid said Charles any money for sand or gravel from the premises, did he not receive the same for the said Anna, or as her agent, and as transacting the business of the said Anna? If you say that he did not, declare how and in what way you know the same.

RAND, WARREN & FISKE,
For plaintiff.

A true copy. Attest:

FRANCIS BASSETT, *Clerk.*

Answers of John M. St. Clair to the interrogatories hereto annexed on the part of the defendants.

1st. To the first interrogatory he says: I know all the parties.

2d. To the second interrogatory he says: I know the said homestead farm, and that part of it which is said to have been sold by the said Charles Tufts to the said Wheeler.

3d. To the third interrogatory he says: I have bought gravel of the said Charles Tufts, and taken it from the land conveyed by him to Wheeler, which is west of the street. I have had gravel there, more or less, for ten or fifteen years. I should think I had paid Charles not less than one hundred and fifty dollars for gravel. I could not specify the times when I paid him, nor the quantities I have taken. I made one payment to Elbridge Tufts, but all my other payments, to the best of my recollection, were made to Charles.

4th. To the fourth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: Mrs. Tufts has lived on that farm since her husband's death; and I think she has carried on, improved it, repaired the buildings, and set out trees, and dealt with it as if it were [her] own.

2d. To the second cross interrogatory he says: I have bargained with Mrs. Tufts for sand or gravel from the premises, and have bought it of her for many years; I could not say how many. I commenced teaming in 1831 or 1832, and I have carted gravel from there every year, more or less, since that time. I have sometimes bought of her, and sometimes of him. He sometimes received the pay on her account, as my receipts show. I always bought gravel on my own account, but have delivered it to various persons; among them Mr. Hovey, Mr. Abbott, Mr. Jinnings, Mr. Haynes. I can't recollect the times.

3d. To the third cross interrogatory he says: I should think it had

been for many years a matter of notoriety in Cambridgeport, and the vicinity, that Mrs. Tufts was in possession of the premises, occupying and improving them, and dealing with them as if she were the owner. I could not say as to her education and maintenance of her children from the produce thereof.

4th. To the fourth cross interrogatory he says: He sometimes received the money for her as her agent, but I can't say how often.

JOHN M. ST. CLAIR.

Sworn to before me the eleventh day of August, 1845.

GEO. S. HILLARD, *Commissioner.*

UNITED STATES OF AMERICA,
District of Massachusetts, city of Boston:

On the ninth and eleventh days of August, 1845, the aforesaid deponents came before me, and being by me severally sworn to tell the truth, the whole truth, and nothing but the truth, they gave the foregoing depositions, and subscribed the same in my presence, which were reduced to writing by me. These depositions were taken by virtue of the commission hereto annexed, and to be used in the cause therein mentioned, and all the directions contained in the said commission were carefully observed by me in the execution thereof.

GEO. S. HILLARD, *Commissioner.*

Commissioner's fees - - - - - - -	$10 00
Deponents' fees - - - - - - - -	2 50
Travel - - - - - - - - -	60

Deposition of C. B. Stevens.

CIRCUIT COURT OF THE UNITED STATES,
District of Massachusetts, in chancery:

ANNA TUFTS
vs.
CHARLES TUFTS and EMERSON WHEELER, } In equity.

Interrogatories on behalf of the defendants to C. B. Stevens, of Cambridge:

1st. Whether or not you are employed as a clerk or assistant in the registry of deeds, in Cambridge, in the county of Middlesex?

2d. Whether or not you were ever employed by any person or persons to examine the title to an estate in Cambridge, conveyed by Ammi Cutter to Charles Tufts, by deed dated February 1st, 1834, recorded in book 329, page 345? If you were so employed, who employed you, and when; and did you examine the title to said estate; and did you, at any time, and when, give the result of your examination to any person or persons?

3d. Please examine the paper now shown to you, marked A, and say whether the same is or is not a paper exhibiting the result of your examination of said title; and please state whether or not the same was written on the day it bears date, September 3d, 1844, or on any and

what other day, if any; and whether you delivered said paper marked A to any person or persons, and whom, and when?

Lastly. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same, fully and at large, in your answers.

S. E. SEWALL,
For C. Tufts and E. Wheeler.

The plaintiff objects to the second and third interrogatories, and to the paper referred to therein, as being impertinent, and as not being the best evidence of the matters therein contained or referred to, which the nature of the case admits; and prays that, if any testimony be taken thereunder, it may be expunged; and claims and reserves the right to object thereto.

RAND, WARREN & FISKE,
For plaintiff.

Answers of C. B. Stevens to the interrogatories hereto annexed on the part of the defendants.

1st. To the first interrogatory he says: I am employed as clerk in the registry of deeds in Cambridge, in the county of Middlesex.

2d. To the second interrogatory he says: I was employed by Mr. Chamberlain to examine the title to an estate in Cambridge conveyed by Ammi Cutter to Chas. Tufts, by deed dated February 1, 1834. and recorded in book 329, page 345. It was in the summer or fall of 1844 that I was so employed. I did examine the title to the said estate, and within ten days gave the result to Mr. Chamberlain.

3d. To the third interrogatory he says: The paper marked A, hereto annexed, is the paper exhibiting the result of my examination of this title. It was written on the day of its date, September 3, 1844, and was given to Mr. Chamberlain within a few days from that time.

4th. To the fourth interrogatory he says: I know not.

CHAS. B. STEVENS.

Sworn to before me the first day of August, 1845.

GEO. S. HILLARD, *Commissioner.*

[A.]

REG. OF DEEDS OFFICE,
Cambridge, Sept. 3d, 1844.

Anna Tufts, executrix of the last will and testament of Peter Tufts, jr., late of Cambridge, conveyed to Ammi Cutter "two undivided third parts of a certain piece or parcel of land lying in Cambridge, bounded as follows, viz: Southeasterly on the road leading to the Powder magazine; easterly on land of Thos. Short and others; northerly on land *of* formerly of Jacob Wythe and others; northwesterly and westerly, and southwesterly, on a proprietor's way or salt marsh belonging to Ephr'm Cutter, heirs of Joseph Adams, and sundry other persons, till it comes

to the first mentioned road leading to the Powder magazine, or however otherwise the same may be bounded, or reputed to be bounded, containing 12 acres, more or less." Dated September 22d, 1828, and recorded book 284, page 11.

Anna Tufts, executrix, conveyed to Daniel Cummings "one undivided third part" of the same estate. Dated September 22d, 1828. Book 284, page 14.

Dan'l Cummings conveyed to Rich'd Perkins "one undivided third part of the same estate, by warrantee deed. Dower released. Dated January 1st, 1831. Book 301, page 512.

Ric'd Perkins mortgaged the same back to said Cummings for $1,-100. Discharged February 3d, 1832.

Rich'd Perkins conveyed to Ammi Cutter the same one-third by deed dated February 18, 1832. No release of dower. Book 310, page 174.

Ammi Cutter conveyed to L. M. Goldsmith "a certain parcel of land situated in Cambridgeport, and bounded as follows, to wit: From Magazine street northwesterly, 72 feet, by lands of T. W. Short; southerly, 27 feet, to corner or building belonging to said Short; thence westerly, to land of said Short and others, 639 feet, to a diking; southwesterly, on said diking, 24 feet; thence, by other land of mine easterly, 635 feet, to a stake; southeasterly 20 feet, to said Magazine street, and on said street 21 feet; containing about one-third of an acre." Warrantee deed, dated Sept. 2d, 1833. Book 326, page 194.

Ammi Cutter conveyed to Charles Tufts "a certain piece or parcel of land situated in Cambridge, and bounded as follows, viz.: Southeasterly, by road leading from Cambridgeport, so called, to the Powder magazine; northeasterly, by land sold by me to L. M. Goldsmith; northwesterly, westerly, and southerly, on a proprietors' way, or salt marsh, belonging to Ephraim Cutter and others, to the first mentioned road, or however otherwise bounded; containing 11½ acres, more or less." Warrantee deed. Dower released. Dated February 1, 1834. Book 329, page 445.

Charles Tufts mortgaged the same back to said Cutter. Assigned by said Cutter to Margaret Clark, and by her discharged July 10, 1835.

Charles Tufts mortgaged the same estate, (11½ acres, more or less,) for $2,000 to Edmund Wright, jr., payable in one year from date. Dower not released. Dated February 25, 1843, Book 425, page 289.

E. Wright, jr., quit-claims to Charles Tufts, (a part, the same mortgaged by said Charles to said Wright aforesaid,) "all my right, title, and interest in and to a certain lot of land, containing 620 *four* feet, situated in that part of Cambridge called Cambridgeport, on the westerly side of Magazine street, and bounded as follows: Beginning on said Magazine street, at the corner of land belonging to Wm. Arkerson, jr.; thence southwesterly, and bounded southeasterly on said street, 23 feet; thence northwesterly, and bounded southwesterly by land of said Tufts, in a straight line, 43 feet, to land of said Arkerson; thence easterly, and bounded northerly 51 feet and 6 inches on land of said Arkerson, to said Magazine street, where the description commenced, it being a trian-

gular lot, adjoining the lot formerly belonging to L. M. Goldsmith, and occupied by J. Docherty for a rope-walk. Dated May 22d, 1843. Book 427, page 386.

Chas. Tufts conveyed the same 624 feet to W. Arkerson, jr., by warrantee deed. Dower released. Dated May 22d, 1843. Book 427, page 388.

The foregoing are all the conveyances I find on record, relating to the estate conveyed by Ammi Cutter to Charles Tufts aforesaid, for 20 years past.

W. F. STONE, *Register*.
Per C. B. STEVENS.

Paper marked A, annexed to the deposition of C. B. Stevens.

GEO. S. HILLARD,
Commissioner.

Deposition of James Stone.

Circuit Court of the United States, district of Massachusetts, in chancery.

ANNA TUFTS,
vs.
CHARLES TUFTS and Emerson Wheeler. } In equity.

Interrogatories to James Stone, of Cambridge, in said district, yeoman, on behalf of the said defendants.

1st. Are you acquainted with the parties to this suit, either and which of them, and how long have you known either and which of them?

2d. Are you acquainted with the homestead and other premises, formerly of Peter Tufts, junior, in Cambridge, now occupied by the said Anna Tufts; and if yea, how long have you known them?

3d. Whether or not you ever proposed to said Anna to hire the said premises on shares, and if you did, when, and for how long? What conversation or conversations, if any, took place at that time? Whether or not, in any such conversation or conversations, she told you who was the owner of said premises, and whom, if any one, did she name as the owner thereof? And on what, if any, terms did she say she occupied the same? Whether or not, in any such conversation or conversations, she represented herself as the owner of said premises, or as occupying the same as a tenant, or as paying rent therefor to any, and if any, what other person?

4th. Whether or not, in consequence of what said Anna said in any such conversation or conversations, or for any, and if any, what other reason, you applied to any person, and if to any one, to whom, to ascertain if he would give leave for you to hire the said premises of said Anna? And what answer did you receive from such person or persons?

5th. Whether or not you took the said premises on shares of said Anna? If you did, for what term of time? And how long did you occupy them? And did you at any time, and how often, if at any time, see and converse with said Anna while you were occupying the said premises?

6th. Did you ever, and if ever, when, have any conversation or conversations with said Anna as to the ownership of the stock on said premises, and who did she say owned the same?

7th. Whether or not said Anna at any time, in your presence, said she had any right to purchase said premises, or represented herself as having any other interest therein than that of a tenant paying rent? If she did, please state what she said on this subject. Whether she represented herself as a tenant, paying rent for said premises, or holding the said premises in any, and if any, what other way?

8th. Whether or not, in any conversation with you, said Anna said she took charge of the magazine on said premises for said Charles; and what, if anything, did she say was done with what she was to receive for taking care of said magazine?

9th. What has been the pecuniary credit and reputation for property of said Anna, during the time you have known her?

10th. Whether or not, in any conversation or conversations with said Anna, she mentioned her having been put in jail for debt? And what did she say on that subject? And what did she say as to her owning property, or her means of payment?

11th. Whether or not you had any difficulties or disputes with said Anna while you occupied said premises? If yea, did she or not at those times say that any person, and if any person, who, owned the said premises, and offer to leave the dispute to him?

12th. Whether or not you had any dispute about the hay cut on said premises with said Anna? With whom did you settle the dispute?

13th. Whether or not, when you left the said premises, you settled and divided the stock and tools with any person as the owner of any part of them; and if so, with whom? And whether or not said Anna Tufts was present, or took any part in the settlement or division?

Lastly. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

S. E. SEWALL,
For C. Tufts and E. Wheeler.

The plaintiff objects to the latter part or clause of the seventh, and fore part or clause of the thirteenth, direct interrogatory as leading, and reserves the right to have any testimony taken thereunder expunged.

RAND, WARREN & FISKE,
For Plaintiff.

Cross interrogatories to be administered to James Stone, a witness proposed to be examined on behalf of the defendants.

1st. Have you not had a dispute and controversy with the plaintiff, Anna Tufts? Was it not, or some part of it, referred to referees? Did not said Charles Tufts appear before the referees as a witness for the said Anna? Did she not seek to show, or attempt to show, by him,

that you had violated your agreement with her, relative to the said premises?

2d. If you say that you proposed to said Anna to hire or take the premises on shares, declare whether you did not make an agreement with her therefor; and whether you were not a stranger to her at the time; and whether you did not at first state to her, as an inducement to the bargain, that you had, or should have, only a wife and two children to live with you; whether you did not, in another and subsequent interview, admit that you had, or should have, only a wife and four children to live with you, and no more; and whether you had not then seven children, and did not bring with you to live on the premises a wife and six children.

3d. If you say you took the premises on shares, *was* you not at some time not long after you took the premises on shares, or at what other time, brought home to the dwelling-house there, in a wagon, intoxicated; and was it not because you could not come home on foot? *Was* you not spoken to or questioned about it afterwards? And did not the said Anna, in consequence of that, or of what other thing, offer to give you $50 if you would give up the bargain and quit the premises? And did not the said Anna converse with you relative to giving up the contract and leaving the premises, and on what occasion, soon after you went there under the contract, and desire that you would do so, or express dissatisfaction with you? Did you not get angry and quarrel, while you were there, with, and threaten, the plaintiff and her family?

4th. Did not you sell milk, in the market or elsewhere, from the premises in which you and said Anna were interested, under your bargain to take the place on shares? Did you not, while there, take the milk pail, and go to the pump and pump into it some water, and then, while the water was in the pail, go to the cow and milk into it? Did you not do so on more than one occasion, and how often? Was it not done for the purpose of increasing the apparent quantity of milk to be sent to the market or sold? Did not the said Anna discover what you did, and complain thereof to you? Did you not attempt to justify your doings herein, by saying that the milk would nevertheless be as good as the milk of other milkmen, or as other milk sold in the market; or that it would be for her benefit to swell the number of quarts of milk; or something of like import and effect? What is your religious creed? Do you believe in a future state of reward and punishment?

5th. If you say that you settled or divided any stock with any one, please to state what stock it was, and specify it particularly. Did you not take moneys and articles belonging to the common stock, and apply or appropriate the same to your own use, which you never accounted for?

6th. If you speak of any conversations with, or declarations of, the said Anna Tufts, inquired after in the direct interrogatories, declare whether you recollect the precise words used; whether you recollect the whole of the precise words used; whether you state the whole of the conversation in the precise language used; whether you state it in the

same connexion as used with reference to what preceded and followed. Who was present at the conversations or conversation?

7th. When *was* you first inquired of as to the subject of the direct interrogatories, and by whom? And when, where, by whom, and how many times have you been inquired of relative thereto? Have you had any conversation with Solomon B. Morse, junior, relative to the subject of your testimony, or of the direct interrogatories?

8th. Have you ever seen or been informed of the direct or cross interrogatories put to you? If so, when and where, by whom, and who was present?

9th. If you speak of any conversation with the said Anna, as to her being put in jail for debt, and respecting her property, declare whether the conversation was respecting such property as might be attached or taken in execution, or as was embraced under the poor debtor's oath.

10th. What has been your occupation for the last twenty years? Have you hired any premises or taken them on shares, of any person or persons, before or since you made your agreement with the plaintiff? If so, have you not had a quarrel or dispute with him or them respecting the same? Did you ever make any contract or agreement with Richard H. Dana, esquire?

11th. Have you not been at enmity with the said Anna Tufts, and spoken ill of her ever since you left the said premises?

RAND, WARREN & FISKE,
Solicitors.

Answers of James Stone to the interrogatories hereto annexed on the part of the defendants.

1st. To the first interrogatory he says: I know all the parties to this suit, and have known them for eight years and upwards.

2d. To the second interrogatory he says: I am acquainted with the said homestead and premises, and have known them since 1837.

3d. To the third interrogatory he says: In the spring of 1837, I proposed to her to hire these premises on shares for one year. We had two conversations on the subject, which were principally occupied in discussing the terms. I do not remember that she told me, in these conversations, who was the owner of these premises. She did not say on what terms she occupied them. I cannot recollect, in these conversations, how she did represent herself, whether as the owner or as a tenant.

4th. To the fourth interrogatory he says: Before I entered upon the premises, I applied to Charles Tufts and asked him if she had a right to let the premises, and he said that she had a right, or words to that effect. I do not distinctly recollect, but I think that I applied to him because I had heard that he was the owner. I do not know that Mrs. Tufts had said any thing at that time to lead me to make this inquiry of him.

5th. To the fifth interrogatory he says: I took the said premises of Mrs. Tufts, for one year, on shares, and occupied them for one year. I

saw and conversed with Mrs. Tufts every day while I so occupied the premises, or nearly every day.

6th. To the sixth interrogatory he says: We had frequent conversations as to the ownership of the stock on the said premises. I can't give the exact times. She said that the stock belonged to Charles Tufts.

7th. To the seventh interrogatory he says: I had a number of conversations with her on the subject in the course of the year, in which she always said that Charles Tufts owned the place, and that she paid rent for it. She never said anything to me about her having a right to purchase the premises.

8th. To the eighth interrogatory he says: She said that she and Horatio, Charles' brother, took care of the magazine for Charles, but I do not recollect that she told me what was done with what she was to receive for taking care of it.

9th. To the ninth interrogatory he says: Her pecuniary credit has been bad since I have known her, and she has not had the reputation of property.

10th. To the tenth interrogatory he says: She has said in my hearing that she had been to jail, and that she could go again if she were pressed. She has often said that she was poor, and had no property.

11th. To the eleventh interrogatory he says: I had a good deal of difficulty with her, in the fall of the year, about a settlement, and she always said that the place was Charles', and offered to leave it to him to settle.

12th. To the 12th interrogatory he says: We had some trouble in the fall, and talked of putting a stop to the contract. In that case I claimed one-half the hay. To this she objected. I talked to Charles about it, and agreed with him to refer it to referees, three in number. Two of them decided in my favor, but finally it was dropped where it was, and I stayed through the winter, and completed my year.

13th. To the thirteenth interrogatory he says: When I left I settled with Charles, and divided the stock and tools with him. Mrs. Tufts was not present, and took no part in the settlement or division.

14th. To the fourteenth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: I did have a controversy with Mrs. Tufts, in the fall, as I have hereinbefore stated, and Charles Tufts did appear before the referees, and was asked some questions, but I think he was not sworn. I do not recollect that she attempted to show by him that I had violated my agreement.

2d. To the second cross interrogatory he says: I did make an agreement with Mrs. Tufts to take the premises on shares. I was a stranger to her at the time. I told Mrs. Tufts the number of my children, which was seven, but do not remember that I ever told her that I should bring a certain number of them to live with me. For the greater part of the time I had five children there with me. I told her I should bring my family with me.

3d. To the third cross interrogatory he says: I never was at any time brought home to the premises, in a wagon, intoxicated. She never offered me a cent to quit the place. We did talk about giving up the contract, and quitting the premises, in the fall of that year. She served a writ of ejectment on me, and wanted I should leave the place, and quit everything. I had constant difficulties with her, and was often angry with her, but I never threatened her but once, when I told her that if she did not stop taking wood from my wood pile I would throw her upon the pile. I sometimes used to tell her boys that I would whip them if they stole my fruit, or run across my fields.

4th. To the fourth cross interrogatory he says: I did sell milk round the Port from the premises in which Mrs. Tufts and I were interested, under our agreement. I did not, while there, take the milk pail, and go to the pump and pump water into it, and then milk into it. I have no recollection of any such conversation with Mrs. Tufts as is herein inquired of. I am a Restorationist, but believe that either here or hereafter every man will be punished for all the evil he commits.

5th. To the fifth cross interrogatory he says: There were three cows, one plough, one grindstone, and some small tools which I bought with the common stock money, and divided with Charles. I never took any moneys or articles belonging to the common stock, and applied it to my own use, without accounting for it.

6th. To the sixth cross interrogatory he says: I cannot state the words used in these conversations, nor the whole of them. I only give the substance as I recollect. I cannot remember who was present.

7th. To the seventh cross interrogatory he says: About a month or six weeks ago Mr. Wheeler first spoke to me about the subject of these interrogatories, and soon after Mr. Chamberlain spoke to me on the subject. These are the only times, to my recollection, that I have been spoken with on the subject. I do not know Solomon B. Morse, jr.

8th. To the eighth cross interrogatory he says: I never saw, nor was informed of these interrogatories, before to-day.

9th. To the ninth cross interrogatory he says: She remarked that she had nothing that any body could get, or words to that effect.

10th. To the tenth cross interrogatory he says: I have been principally engaged in farming for the last twenty years. I have never carried on a farm on shares since my agreement with Mrs. Tufts, but have carried on two on shares before that time. I never had any dispute or quarrel with either of those persons. I once hired five acres of land of Mr. Dana for three years.

11th. To the eleventh cross interrogatory he says: I have not been at enmity with Mrs. Tufts since I left the premises. I have frequently spoke against her, and said I did not think she was a woman of truth.

JAMES STONE.

Sworn to before me the twenty-ninth day of July, 1845.

GEO. S. HILLARD, *Commissioner*.

Deposition of Elizabeth Sweetser.

Circuit court of the United States, for the first circuit and district of Massachusetts. In chancery.

Between ANNA TUFTS, plaintiff,
vs.
CHARLES TUFTS and EMERSON WHEELER, defendants.

Interrogatories to Mrs. Elizabeth Sweetser, wife of ——— Sweetser, of Charlestown, in said district, on behalf of said defendants:

1st. Are you acquainted with the parties to this suit, either and which of them, and how long have you known them, respectively?

2d. Whether or not said Anna Tufts was in the habit of visiting you in Charlestown; and if so, when, and how frequently?

3d. Whether or not you are acquainted with the homestead and other premises formerly of Peter Tufts, junior, in Cambridge, occupied by said Anna Tufts; and how long have you known them?

4th. Whether or not at any time, and if at any time, when, and where, the said Anna Tufts mentioned to you, that one George Pierce wished to hire the said premises? If she said he wished to hire the said premises, please to say for how long a term, if any, she said he wished to hire them; and what answer she said she gave to said Pierce; and whether or not she said she told said Pierce she could or could not let it to him for the term he asked for; and whether or not she said she could let it to him for any, and if any, for what, shorter term; and what reason did she give, if any, why she could not let the said premises to the said Pierce for the term he asked for; whether or not she said that any person, and if any, who, was not willing she should let the said premises to said Pierce for the longer term she named?

5th. If you mention any time, when the conversation inquired of in the last interrogatory took place, please state what leads you to recollect the time, or about the time, as nearly as you do.

6th. Whether or not you have ever heard the said Anna Tufts speak of the said Charles' kindness to her, and what has she said on that subject, if anything, and when, and where?

7th. What has been the pecuniary credit and reputation for property of said Anna, since you have been acquainted with her?

Lastly. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

S. E. SEWALL,
For C. Tufts and E. Wheeler.

Cross interrogatories to be administered to Elizabeth Sweetser, a witness proposed to be examined on behalf of the defendants.

1st. Have you a husband, and if so, what is his occupation?

2d. Are you not the mother-in-law of Charles Tufts, or how are you related to him? Is said Charles' wife your only daughter?

3d. When did you last see Anna Tufts, the plaintiff, to have conversation with her? Have you seen her to converse with her within the last four years? If so, when, and where, and how many times, and who was present?

4th. If you speak of any conversation, in answer to the fourth direct interrogatory, please declare who was present. Do you recollect the precise words, if any, used by Anna Tufts on the occasion or occasions inquired after in the direct interrogatories? Do you recollect and state the precise words she used? Do you state the whole conversation, and all the precise words she used? Do you recollect and state the exact connection in which they were used in reference to what preceded and followed? When were you first questioned respecting the same, since the conversation, if any, you speak of? And by whom, and where? How often have you been spoken to about it? Have you not frequently had conversation with Charles Tufts respecting this suit?

RAND, WARREN & FISKE,
Solicitors.

Answers of Eliza Sweetser to the interrogatories hereto annexed on the part of the defendants.

1st. To the first interrogatory she says: I have known Mrs. Tufts for ten years and upwards. I have known Charles Tufts from his childhood. I do not know Emerson Wheeler.

2d. To the second interrogatory she says: Mrs. Tufts often called to see me in Charlestown, but I cannot say how often. Sometimes she would call two or three times a week, and sometimes she would pass some weeks without coming. This was from the time I first knew her till within five years past.

3d. To the third interrogatory she says: I know the said homestead and premises, and have known them for ten years and upwards.

4th. To the fourth interrogatory she says: I heard Mrs. Tufts say that one George Pierce wished to hire the said premises. I cannot state the exact time, but it was between six and eight years ago. It was in my house. She said he wanted it for ten years. But she said she could not or would not, (I don't recollect which,) let it for more than five years. I asked why she did not let him have it for ten years? She answered that she could not. I said why? She replied that Charles was not willing to let him have it for more than five years.

5th. To the fifth interrogatory she says: I do not know of anything in particular which leads me to recollect the time.

6th. To the sixth interrogatory she says: She said in her house, as much as ten or eleven years ago, and perhaps more, that Charles had been a father to her children, and that he had been as kind to her as if he had been her own child; and she added, that she never could have got along with her children as well as she did, if it had not been for him.

7th. To the seventh interrogatory she says: I do not know as to her pecuniary credit and property.

8th. To the eighth interrogatory she says: I know not.

Answers to the cross interogatories.

1st. To the first cross interrogatory she says: I have a husband, and he is a carpenter by occupation.

2d. To the second cross interrogatory she says: I am the mother-in-law of the said Charles Tufts. He married my only daughter.

3d. To the third cross interrogatory she says: I have not had any conversation with the said Anna Tufts for the last four years, to my recollection. I cannot recollect when I had my last conversation with her.

4th. To the fourth cross interrogatory she says: No one was present at the said conversation. I am confident that she used the words I have related, or very nearly the same. I have stated the whole of the said conversations, as I recollect them. I cannot state the connection of them, with what preceded and followed. I was first questioned about the said conversation, in February last, by my daughter, in my own house. My husband, my daughter, and Charles Tufts, have spoken to me about this conversation, but very seldom. I can't say how often. I have occasionally, but not frequently, exchanged a few words with Charles Tufts about the suit.

ELIZA SWEETSER.

Sworn to before me, the twenty-fourth day of July, 1845.

GEO. S. HILLARD,
Commissioner.

Deposition of George W. Livermore.

Circuit court of the United States, district of Massachusetts, in chancery.

ANNA TUFTS
versus
CHARLES TUFTS and Emerson Wheeler. } In equity.

Interrogatories on behalf of the defendants to George W. Livermore, of Cambridge in the district aforesaid, esquire.

1st. What is your business, and how long have you been in it?

2d. Are you acquainted with the parties to this suit, either and which of them, and how long have you known them respectively?

3d. Are you acquainted with the homestead and other premises in Cambridge, formerly of Peter Tufts, junior, and since his death occupied by said Anna; and how long have you known them?

4th. Whether or not have you ever had any demand or demands against said Anna left with you for collection? If you have, when and what demand or demands; and what conversation or conversations if any, did you ever have with her respecting her means of paying said demands; whether or not, in any such conversation or conversations you ever inquired of her respecting the ownership of said premises mentioned in the last interrogatory, or of her interest in the same; whether or not, either in answer to such inquiries, or otherwise, the said Anna ever told you whether or not she had any interest in or title to the said premises; and what did she say on that subject?

Lastly. Do you know, or can you set forth, any other matter or thing

which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answers.

S. E. SEWALL,
For C. Tufts and E. Wheeler.

Cross interrogatories to be administered to George W. Livermore, a witness proposed to be examined on behalf of the defendants.

1st. If, in answer to the fourth interrogatory, you say that you ever made inquiries of, or had any conversation with, said Anna Tufts, therein inquired after, please declare whether your inquiries were not confined to such property as was recognised by law as liable to be taken or attached, to secure or satisfy the demands of creditors? Did you do more than to inquire if she had any property which you could take, or that could be taken, to satisfy or secure the demand? Had you any, and if so, what, occasion or business to inquire after any trust or equitable claim that was not and could not be the subject of attachment, nor was or could be liable to be taken in execution, nor was embraced by the poor debtor's oath? Were not your inquiries made solely with reference to the satisfaction of the demand you had against; and was not the conversation, if any, had in reference to such property as might be taken as aforesaid, as would be embraced under the poor debtor's oath? Did not the said Anna, in such conversation, if any was had, tell you that, if people would let her alone, she should some time or other have enough to pay all her debts, or be able to pay all her debts, or something, and what, of similar or nearly like import and effect?

2d. If you say that you inquired of the said Anna respecting the title to the said premises, please declare why you so inquired, and whether it was not because she was reported to be the owner thereof, or to have some interest therein? Was it not, and has it not been, a matter of notoriety in said Cambridgeport, and in the vicinity of the premises, that the said Anna was, since the death of Peter Tufts, mentioned in the direct interrogatories, in possession of the premises, carrying on the farm there on her own account, and making improvements and betterments, and repairs, on the premises, in the same manner as if she were the proprietor thereof; or how otherwise?

3d. Do you know, or have you been informed by said Wheeler, whether any other person or persons, and if so, who, were concerned with him in the purchase of a parcel of the said premises?

4th. If you speak of any conversation had with the said Anna Tufts, inquired after in the direct interrogatories, please declare whether you recollect now all that was then said by her; whether you recollect the precise words she used; whether you recollect all the precise words used; whether you now state the whole conversation; whether you state all the precise words used; whether what you state is in her or your own language or words; whether you recollect and state the connection in which the words used, which you state, were used or uttered;

when were you first questioned respecting the same, and by whom, and where? Have you had any conversation with Solomon B. Morse, junior, respecting the same? If so, when, and where?

5th. Have you ever seen the direct or cross interrogatories proposed to you, or been informed of the contents thereof, or of the testimony of any of the witnesses in this cause? If so, when, where, by whom, and who was present?

RAND, WARREN & FISKE,
Solicitors.

A true copy. Attest:

FRANCIS BASSETT, *Clerk.*

Answers of George W. Livermore to the interrogatories hereto annexed on the part of the defendants.

1st. To the first interrogatory he says: I am an attorney at law, and have been so for seventeen years.

2d. To the second interrogatory he says: I have known all the parties for four or five years.

3d. To the third interrogatory he says: I have known the said premises and homestead for about five years.

4th. To the fourth interrogatory he says: I have had a great many demands left with me for collection, against Mrs. Tufts, during the last five years. One demand was in favor of Walter M. Allen; another was in favor of a Mr. Thwing. I cannot remember the amounts of these demands, nor the time when they were left, nor the names of any other persons who have left demands against her. I have had frequent conversations with her respecting these demands, and her means of payment. She has told me that she had no means of payment, that it was useless to sue her, that she had nothing but what she acquired from her occupation of those premises; that Charles Tufts was the owner of them, and that she was there only as a kind of agent under him, and that the whole property, real and personal, belonged to him.

5th. To the fifth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: My inquiries were as to her means of paying these demands, and of course were confined to such property as could be available for that purpose. She gave me to understand at one time that she had an equitable interest in the said property, which afterwards she denied. I made my inquiries to such an extent as to ascertain if she had any property which I could get hold of, and which could be attached or levied upon. I had no object in inquiring into any interest of hers, other than such as might be attached directly, or by the trustee process. She has said to me, if people would let her alone she would pay her debts, or words to that effect.

2d. To the second cross interrogatory he says: I have no recollection of making an inquiry of her as to her title in the premises. What

she has told me thereof has been of her own accord. I have no knowledge of its having been a matter of notoriety in Cambridgeport, and the vicinity of the premises, that she was in possession of the premises and carrying on the farm on her own account, as is inquired of.

3d. To the third cross interrogatory he says: I do not know, nor have I heard from Mr. Wheeler, who were associated with him.

4th. To the fourth cross interrogatory he says: I do not pretend to remember or state the whole of these conversations, or the precise words used, or the connection in which they were introduced. I give the substance as I remember it. The first time I ever talked about these conversations was with Mr. Chamberlain, a few weeks since, in his office. I do not know Solomon B. Morse, Jr.

5th. To the fifth cross interrogatory he says: I do not know who the witnesses are in this cause, and I have never seen these interrogatories, or been informed of their contents.

GEO. W. LIVERMORE.

Sworn to before me, the second day of August, 1845.

GEORGE S. HILLARD, *Commissioner*.

UNITED STATES OF AMERICA,

District of Massachusetts:

City of Boston. On the several days hereinbefore mentioned, the aforesaid deponents came before me, and being by me severally sworn to tell the truth, the whole truth, and nothing but the truth, they gave the foregoing depositions, and subscribed the same in my presence, which were reduced to writing by me. These depositions were taken by virtue of the commission hereto annexed, and to be used in the cause therein mentioned, and all the directions contained in the said commission were carefully observed by me in the execution thereof.

GEO. S. HILLARD, *Commissioner*.

Commissioner's fees - - - -	$12 00
Deponents' do - - - -	5 00
Travel - - - - - -	1 20

Deposition of Andrew Newman.

CIRCUIT COURT OF THE UNITED STATES,

District of Massachusetts, in chancery:

ANNA TUFTS
vs.
CHARLES TUFTS and EMERSON WHEELER. } In equity.

Interrogatories to be proposed on behalf of said defendants to Andrew Newman, of Castine, in the State of Maine.

1st. Are you acquainted with the parties to this suit, either and which of them, and how long have you known them?

2d. Are you acquainted with the homestead and other premises in Cambridgeport, formerly the property of Peter Tufts, junior, and since his death occupied by said Anna?

3d. Whether or not you ever applied to said Anna Tufts to purchase a strip of land, part of said premises; if you did, when, where, and on whose account did you apply; what answer did said Anna Tufts give to your application; whether or not she named any price, or said that she owned the same, or that some other person owned the same; and did she refer you to any other person, and if so, to whom, as the owner of the land, to ascertain the price?

4th. Whether or not you ever made any, and if any, what, bargain for the purchase of said strip of land with any person, and if any one, with whom; whether or not you ever had any conversation with said Anna about the purchase of said strip of land, other than that mentioned in your answer to the third interrogatory; to whom did you direct the deed for said strip of land to be made?

Lastly. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

S. E. SEWALL,
For C. Tufts and E. Wheeler.

Cross interrogatories to be administered to Andrew Newman, a witness proposed to be examined on the behalf of the defendants.

1st. What is and has been your occupation, and where have you resided for the last twenty years?

2d. If in answer to the third, or other direct interrogatory, you say that you applied to the said Anna to purchase a strip of land on account of or for any person, please to declare whether the same person is not now dead; why did you apply to the said Anna, the plaintiff; was you referred to her to make the inquiry or bargain by any one, and if so, by whom; or was it because she was reputed to be the owner, or to have some interest in the premises; was not the said Anna, at that time, in possession of the premises, carrying on the farm there; and had she not been so in possession since the death of Peter Tufts, mentioned in the direct interrogatories; and did she not make betterments, repairs, and improvements thereon; did not Charles Tufts often transact her business out of doors; did not said Anna Tufts sell sand and gravel from the premises; and did not divers persons, at divers times, apply to her to purchase sand and gravel; did not the person, if any, for whom you applied to the said Anna, have conversation with said Anna Tufts respecting the purchase; did not said Anna and said Charles converse together respecting the same; do you not know that said Anna was, before that time, desirous of selling a strip of land there, to separate her premises from a troublesome neighbor?

3d. If you speak of any conversation with said Anna Tufts, please declare whether you state the whole conversation in the very words used; whether you can now recollect the words used; when since was you first questioned, concerning the subject of inquiry, in the direct in-

terrogatories; by whom you have been questioned respecting the same, and when, and where; whether you have had any conversation with Solomon B. Morse, junior, respecting the same; if so, when and where?

4th. Was it not a matter of notoriety, in Cambridgeport and the vicinity, that the said Anna was in the possession, occupation, and improvement of the premises inquired after, ever since the said Peter Tufts' death, and that she claimed to have some interest therein?

5th. Have you had any conversation with the said Wheeler touching the premises; has he told you whether any one, and if so, who, was or were concerned with him in purchasing a part of the premises?

6th. Have you ever seen the direct or cross interrogatories put to you, or been informed thereof, or of the testimony of any of the witnesses in this cause; if so, when, where, by whom, and who was present?

RAND, WARREN & FISKE, *Solicitors*.

A true copy.
Attest: FRANCIS BASSETT, *Clerk*.

In answer to the aforesaid interrogatory, 1st, the deponent says: I am acquainted with Mrs. Anna Tufts, and with Charles Tufts, and have known them for twenty years; I have known Emerson Wheeler for several years, but have no particular acquaintance with him.

Answer to interrogatory 2d. I am acquainted with the homestead and other premises in Cambridgeport, formerly the property of Peter Tufts, junior, and the same since his death occupied by said Anna.

Answer to interrogatory 3d. I did apply to said Anna Tufts to purchase a strip of land, part of said premises; it was in 183?, at her house in Cambridgeport. I applied on my own account. When I applied as aforesaid the said Anna referred me to said Charles Tufts; she said I must see Charles, and that I would find him at the magazine. She did not name any price, nor did she say that she owned the same, nor that any other person owned the same. She referred me to the said Charles Tufts, as before stated, and said I could trade with Charles, and whatever bargain I made with him she would have no objections to.

Answer to interrogatory 4th. I did make a bargain for said strip of land with said Charles Tufts, and was to give seventy dollars therefor, on the delivery of the deed. I never had any other conversation with said Anna, respecting the purchase of said strip of land, except the one above stated. I directed the deed of said strip of land to be made to Lazarus M. Goldsmith, late of Boston.

Answer to the last interrogatory. I am not aware that I can state anything further of advantage to either of said parties.

ANDREW NEWMAN.

Answer to the first cross interrogatory. I am a ropemaker by trade, and have resided in Cambridgeport for the last twenty years, except when occasionally pursuing my occupation elsewhere; my family remaining at Cambridgeport.

Answer to cross interrogatory 2d. I applied to said Anna for the purchase of said strip of land on my own account, as before stated. I mentioned no other person during the progress of the negotiation with said Charles Tufts about said land. But after the bargain was made, I requested that the deed might be made to Mr. Goldsmith, who has since deceased. I applied to said Anna because I supposed she was the owner, and had the sole disposal of it. I was not referred to her by any one. It was thought in our neighborhood that she was the owner. The said Anna was at that time in occupation of the premises, carrying on the farm. She had been so in possession of said premises, from the death of said Peter Tufts up to the time I called upon her, and longer. Since the death of said Peter Tufts, some repairs have been made upon the buildings on the premises, and some of them have been enlarged. I think the repairs were made by her, but do not know this; they may have been made at the expense of some other person. I have no certain knowledge that said Charles Tufts transacted out-of-door business for said Anna. The said Anna has sold gravel from said premises, and has requested me to keep an account of the loads hauled away. I have no personal knowledge of any application to her for sand and gravel. Mr. Goldsmith did not, to my knowledge, speak to said Anna Tufts, nor to any one else, respecting the purchase of said strip. I do not know that said Anna and said Charles conversed together respecting said strip of land, and the sale thereof. Nor do I know that said Anna desired to sell it for the purpose mentioned in said second interrogatory.

Answer to cross interrogatory 3d. When I applied to Mrs. Tufts, as before stated, I told her I wanted the land to place a rope factory on. I have, in my answer to the third interrogatory, stated the whole of the conversation so far as I now recollect it. I do not recollect her precise words, but state the substance of the conversation. I was first inquired of concerning the subject of the direct interrogatories, by letter, from said Charles Tufts, I think in March or April last. I have had no conversation with said Solomon B. Morse on said subject, nor with any other person.

Answer to cross interrogatory 4th. It was matter of notoriety in Cambridgeport and vicinity, that the said Anna was in the possession and improvement of the premises inquired after, ever since the decease of said Peter Tufts. Whether it was matter of notoriety that she claimed an interest therein, I cannot state.

Answer to cross interrogatory 5th. I have not had any conversation with said Wheeler, touching the premises.

Answer to cross interrogatory 6th. I have never seen the interrogatories or cross interrogatories put to me as above, except in the hands of the magistrate before whom my said answers have been taken; nor have I been informed thereof, nor of the testimony of any of the witnesses in this cause.

ANDREW NEWMAN.

STATE OF MAINE, *Hancock, ss:*

On this twenty-sixth day of July, A. D. 1845, agreeably to foregoing commission, and the instructions thereon contained, I have caused the said Andrew Newman to be before me, and have carefully examined him upon oath, touching the matter of inquiry in the several interrogatories and cross interrogatories aforesaid, in private, no other person except myself being present, and having taken the examination as aforesaid, I have reduced the same to writing. And the answers of said deponent to said interrogatories and cross interrogatories have been respectively signed by him in my presence.

C. J. ABBOTT, *Jus. of the peace.*

Magistrate's fees, notifying, taking depos. - -	$2 50
Deponent's - - - - - -	58
	$3 08

Deposition of Elias Howe.

Circuit court of the United States, district of Massachusetts, in chancery.

ANNA TUFTS
versus
CHARLES TUFTS & EMERSON WHEELER. } In equity.

Interrogatories on behalf of the defendants to Elias Howe, of Cambridge, in said district, and Mary, his wife:

1st. What is your employment?

2d. Are you acquainted with the parties to this suit, either and which of them, and how long have you known either and which of them?

3d. Are you acquainted with the homestead and other premises in Cambridgeport, formerly of Peter Tufts, jun., and since occupied by said Anna Tufts?

4th. Whether or not you have ever, and if ever when, where, and on what occasions, and how often, heard said Anna Tufts say who said premises belonged to? And whom did she say, if any one, they belonged to?

5th. Whether or not at any time, or times, when said Anna was about going to New Orleans, you had any conversation with her about the means she had of defraying the expenses of such a journey? Whether or not, in any such conversation, she said she had or had not property, or said anything in reference to who owned said place, and as to the way in which she was going to raise money for her journey? If she said anything on these points, please state all she said.

Lastly. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to this subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

S. E. SEWALL, *for Defendants.*

Cross interrogatories to be administered to Elias Howe and Mary, his wife, witnesses proposed to be examined on the part and behalf of the defendants.

1st. What is your occupation? What are your respective ages; and what for the last twenty years have been your several occupations; and where have you lived?

2d. Interrogatory to Mary Howe. Have you ever lived in the service of any one, and whom, and how long? Did you not make a false statement to Mrs. Martha Anna Stratton, or some one a d whom, respecting the occupation by her or some one, and whom, of a pew in a meeting-house? And did you not afterwards make an apology to, or ask the pardon of, her or some one, and whom, therefor; or ask her if she was offended with you therefor, or something to that effect?

3d. Interrogatory to Elias Howe. Have you not been indicted as a common drunkard? Have you not been indicted for keeping a gambling-house, or shop, or place for gambling; or for keeping a disorderly house, shop, or place, where persons have assembled for unlawful or improper purposes, or for some such, and what, offence or nuisance of that kind? What has become of such prosecution against you? Is it pending, or has it been suspended or discontinued? If yea, has it not been through your promise to discontinue the practice or nuisance? *Has* there not been broils, and fighting, and gambling, at the shop or place heretofore kept by you, while kept by you? Did you not beat Samuel B. Harris at that place or near there; and did he not die soon, and how soon, thereafter? Did you not keep your shop or place open on the Sabbath day, or admit persons on that day to drink or gamble there?

4th. Interrogatory to Elias Howe and wife. If you speak of any declarations of the said Anna Tufts, inquired after in the direct interrogatories, declare how long a time has elapsed since they were made. Whether at this time you can recollect all which was said on the occasion you speak of, and the precise words which were used? Whether you recollect the connexion in which every word and part of the conversation was used and had reference to what immediately preceded and followed it? Whether you now state and set forth the whole conversation on the occasion, and every word and part thereof, precisely in the language, order, and connexion in which it occurred, and was had and used? And declare who were or was, and all who were or was, present on the occasion of which you speak?

5th. Interrogatory to said Howe and wife. Have you conversed with the said Charles Tufts, said Wheeler, or any one, and with whom, on behalf of the defendants or either of them, touching your testimony, or the matters inquired after in the direct interrogatories? If so, when, and where, and with whom, and who was present? Have you conversed with Solomon B. Morse, junior, respecting the same? Have you seen, or heard read or repeated to you, the direct or cross interrogatories, or any part thereof, before your appearance before the commissioner to give your tesimony? If so, when, where, and who was present?

RAND, WARREN & FISKE, *for Plaintiff.*

Answers of Elias Howe to the interrogatories hereto annexed on the part of the defendants.

1st. To the first interrogatory he says: I am not now engaged in any particular employment.

2d. To the second interrogatory he says: I am acquainted with all the parties to this suit, and have known them for about ten years.

3d. To the third interrogatory he says: I am acquainted with the said premises and homestead.

4th. To the fourth interrogatory he says: I have heard Mrs. Tufts say a great many times that the premises belonged to Charles Tufts. She has said so at her house, and in other places. I cannot say when or how often, but it was very frequently. She has said this in conversations which arose respecting her situation as to property.

5th. To the fifth interrogatory he says: I heard a conversation between Mrs. Tufts and my wife, when Mrs. Tufts was about going to New Orleans, about the means she had of defraying the expenses of such a journey, but I did not take part in it. Mrs. Tufts said she had no property. I think my wife asked her how she found means to travel so much. She said she had nothing but her hands, and that she could raise means with them. She said that many people supposed she had property, but she had not any, and that Charles Tufts owned the place where she lived.

6th. To the sixth interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: I am in my fifty-third year. For the last eleven years I have lived in Cambridge. Before that, I lived in Spencer. I was engaged in farming and milking before I came here. Since I have lived here, I have been occupied in the sale and manufacture of palm leaf. Part of the time, during the last two years, I was engaged in the provision business. I have now no regular employment.

3d. To the third cross interrogatory he says: I have never been indicted as a common drunkard, or for keeping a gaming-house, or a disorderly house, or for any offence or nuisance of the kind. There have not been any broils, fighting or gambling, at any shop or place heretofore kept by me. I never beat the said Samuel B. Harris. While I was in the provision business, I kept my store open for a short time on Sunday mornings, as is the custom; but I never admitted persons to drink or gamble.

4th. To the fourth cross interrogatory he says: I have not heard Mrs. Tufts speak on the subject for more than a year. I do not remember all that was said on these occasions, or the precise words used, or the connexion in which the words were used. I only give the substance of these conversations, which were numerous and at various times. I cannot remember who was present at them.

5th. To the fifth cross interrogatory he says: I never conversed with

Mr. Wheeler, touching my testimony. I had a few words of conversation on the subject with Mr. Charles Tufts, a few weeks since, in the street. No one else was present. I also had a conversation on the subject, with Mr. Chamberlain, about ten days since, in my own house. No one else was present but my son, Amasa B. Howe. I have not conversed with Sol. B. Morse, jr., on the subject. I have not seen, or heard read or repeated, the direct or cross interrogatories before my examination. My wife was present at a part of my conversation with Mr. Chamberlain. ELIAS HOWE.

Sworn to before me, the thirty-first day of July, 1845.
GEO. S. HILLARD, *Commissioner*.

Answers of Mary Howe to the interrogatories hereto annexed on the part of the defendants.

1st. To the first interrogatory she says: I have no particular employment, except the care of my family.

2d. To the second interrogatory she says: I do not know Emerson Wheeler. I have been acquainted with Mrs. Tufts and Charles Tufts for ten years and upwards.

3d. To the third interrogatory she says: I am acquainted with the said homestead and premises.

4th. To the fourth interrogatory she says: I cannot say when, where in particular, or how often, but I have frequently heard Mrs. Tufts say that she was poor, and had no property, and that Charles Tufts owned the place on which she lived. This was when we were talking of our respective situations.

5th. To the fifth interrogatory she says: I think it probable that I had some conversation with her about the means she had of paying the expenses of a journey to New Orleans, but I do not remember distinctly what she said.

6th. To the sixth interrogatory she says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory she says: I have had no particular employment for the last twenty years but the care of my family. I am fifty-three years old. I have lived in Spencer, and in Cambridge, for the last twenty years.

2d. To the second cross interrogatory she says: I have never lived in the service of any one. I did not make a false statement to Mrs. Stratton or any one else. I did make a statement about a young lady's occupation of a seat in the pew of Mrs. Stratton's father, which was true, and which I had heard from Mrs. Stratton. He complained to me about it, and I said if he was offended I was sorry for it.

4th. To the fourth cross interrogatory she says: I have not had any conversation with Mrs. Tufts on the subject for these three years. I cannot state all that was said, or the precise words used, or the connection in which they were introduced, or who were present at the conver-

sations. I had many such conversations with her, and I give the substance of what she said.

5th. To the fifth cross interrogatory she says: I conversed with Mr. Chamberlain on the subject a week or fortnight since in my own house. My husband was present, and perhaps my son. I have never conversed with Chas. Tufts or Mr. Morse upon this subject. I have never before seen or heard these interrogatories.

MARY HOWE.

Sworn to before me, the 31st day of July, 1845.

GEO. S. HILLARD, *Commissioner.*

Deposition of Edmund Wright, junior.

Circuit court of the United States, district of Massachusetts. In chancery.

ANNA TUFTS
versus
CHARLES TUFTS & EMERSON WHEELER. } In equity.

Interrogatories on behalf of the defendants to Edmund Wright, junior, of Cambridge.

1st. Whether or not are you acquainted with the parties to this suit, either and which of them, and how long have you known either and which of them?

2d. Whether or not are you acquainted with the homestead farm, formerly of Peter Tufts, junior, of Cambridgeport?

3d. Whether or not did you ever take a mortgage of any and what part of said farm? And, if yea, of whom did you take the same; and when; and for what consideration?

4th. If you say you took such mortgage for the security of any debt, please state the amount of such debt, and when, and by whom, and in what way the same was contracted, and whether or not the same was bona fide and really due to you, and what evidence had you of it; and whether or not said mortgage was taken as a bona fide and real security for such debt; and whether or not you considered it as such security; and whether or not you considered the mortgagor as the bona fide owner of said estate, and as having a just right to convey the same in mortgage?

5th. Please annex said mortgage, or a true copy thereof, to your answers, together with a copy of the note or contract intended to be secured thereby, if in your power so to do.

6th. Whether or not has said mortgage ever been cancelled, and when; and whether or not has the mortgage debt been paid, and when, and by whom?

7th. Whether or not do you know anything else of importance to the defendants? If so, please state the same fully and particularly.

RICHARD FLETCHER,
For defendants.

The plaintiff objects to the foregoing interrogatories proposed to be administered unto Edmund Wright, junior, on behalf of the defendants:

First. Because the same are impertinent and irrelevant to the matters in issue in the above cause.

Secondly. Because they do not contain a last interrogatory in the form required by the 71st rule of the Rules of Practice for the courts of equity of the United States, promulgated by the Supreme Court of the United States, January term, 1842. And the plaintiff further objects to so much of the fourth interrogatory, as follows after the words, "real security for such debt," as inquiring for the opinion of the witness upon a matter wherein his opinion cannot be evidence, and as being inadmissible as evidence under the issues in the above cause. And to the seventh interrogatory, as being vague and indefinite, and not conformable to the above mentioned rule. And the plaintiff does not waive, but reserves the liberty to move, that all testimony, if any shall be taken under the said interrogatories, may be expunged.

RAND, WARREN & FISKE,
For plaintiff.

The plaintiff insisting on, and not waiving the exceptions taken to the direct interrogatories proposed to be administered to Edmund Wright, a witness proposed to be examined on the part and behalf of the defendants, files *de bene esse* the following cross interrogatories:

1st. Is not the said Charles Tufts now in your service in some and what capacity ? And, if so, how long has he been in your service?

2d. Did you not, in the month of August, 1838, or at some other and what time, lend to the said Anna Tufts four hundred dollars, or some other and what sum? If so, did you not make the loan on the supposition that the said Anna owned the premises mentioned or referred to in the direct interrogatory? And have you not, since that time, told the said Anna that you loaned the same on such supposition or belief? Did you not in March, 1845, or at some other and what time, tell the said Anna, in reference to such loan, that you should not have let her had the money if you had not thought that she owned the premises aforesaid, or something of like or similar import or effect?

3d. Do you not know, and is it not, and has it not been, a matter of notoriety in Cambridge, and in the vicinity of the premises referred to in the direct interrogatory, that the said Anna Tufts, since the death of the said Peter, has been in the possession and occupation of the premises, improving and carrying on the farm and business thereof, in like manner as if she were the owner thereof? Has she not, since the time last referred to, from time to time, sold sand and gravel, and produce from the said premises? Has she not, since then, planted or set out fruit or ornamental trees thereon? Has she not, since the said time, made repairs and additions in and to the buildings thereon? Have you not had apples and pears, or other produce, from the said premises of the said Anna, and credited the same to her in account, or agreed so to do?

4th. Did not the said Anna, in the month of September, 1844, or at some other and what time, in your presence, ask or demand of the said Charles Tufts to furnish to her a bill or account of all which she owed to him, and say that she was then ready and willing to pay him all which she owed to him? And did she not ask you to take notice of what she then said to the said Charles, or how otherwise? Did you not at that time, in conversation, tell her that said Charles had done wrong to her in refusing to receive the money, and convey the premises to her; and that you should not have thought that he would have done so, or something of like import and effect?

5th. Have you conversed with the said Charles, or the said Wheeler, or with any one concerned with or for the said Wheeler, respecting the matters inquired after in the direct interrogatories, or the subject of the above suit? If so, when, where, and with whom? And do you know, or have you been informed by the said Wheeler, who, if any one, was concerned with him in a purchase of part of the said premises? Have you had any conversation with Solomon B. Morse, junior, touching the matters inquired after in the direct interrogatories, or the subject of the above suit? Have you seen or been informed of the direct or cross interrogatories, or the substance or import thereof, before appearing before the magistrate to give your testimony, or otherwise than by him? If so, when, where, by whom, and who was present at the time?

RAND, WARREN & FISKE,
for Plaintiff.

A true copy. Attest:

FRANCIS BASSETT, *Clerk.*

Answers of Edmund Wright, jr., to the interrogatories hereto annexed on the part of the defendants.

1st. To the first interrogatory he says: I have known Mrs. Tufts and Charles Tufts, for eight or ten years. I have known Emerson Wheeler about a year.

2d. To the second interrogatory he says: I am acquainted with the said homestead farm.

3d. To the third interrogatory he says: I took a mortgage of all that part of the said farm which lies west of Magazine street, in 1843, of Charles Tufts, to secure a debt of two thousand dollars.

4th. To the fourth interrogatory he says: The amount of my debt was about two thousand dollars. This money was lent by me to Charles Tufts, in order to pay drafts drawn by his brother Elbridge Tufts. It was lent at various times, according to the maturity of the drafts. The amount was really and bona fide due to me. I had his memorandums for the amount. The mortgage was taken as a real and bona fide security for the debt, and I considered it as such. I thought that the mortgagor was the bona fide owner of the estate, and that he had a right to mortgage it.

5th. To the fifth interrogatory he says: I annex a copy of the mortgage, marked A, and also, a copy of his memorandum checks, marked B.

6th. To the sixth interrogatory he says: This mortgage was cancelled in September, 1844. Charles Tufts paid me fifteen hundred dollars of the mortgage debt at the time. The rest he now owes me.

7th. To the seventh interrogatory he says: I know not.

Answers to the cross interrogatories.

1st. To the first cross interrogatory he says: Charles Tufts is now my clerk and book-keeper, and has been for about eight years.

2d. To the second cross interrogatory he says: I did lend Mrs. Anna Tufts four hundred dollars, and I think it was in August, 1838. I supposed that Mrs. Tufts owned some part of the premises, or had a right to some part of them, but I don't know as that influenced me. I lent her the money to accommodate her, and because she said she would repay me in a few weeks. Some time last March, I did tell Mrs. Tufts that I should not have let her have that money, if I had not supposed she owned the place on which she lived.

3d. To the third cross interrogatory he says: I know that Mrs. Tufts has been in possession of the said premises since I have known her, and this has been well known in the neighborhood, I presume. I do not know as to her carrying on the farm, or as to her improvements, or as to her sales of sand and gravel, and produce. I only remember to have had a basket of pears of her, which I presume was a present, as I did not credit her for them.

4th. To the fourth cross interrogatory he says: Some time last year, I can't remember the month, Mrs. Tufts was at my counting-room, and I met her at the head of the stairs, as I was coming up. She said she had been talking to Charles, in order to induce him to do something, I don't remember what. I think it was to settle, and she could not get him to do it, and she wanted me to take notice of what she said. I did not hear what passed between her and Charles, and he was not present when she said this to me. I did not say to her that Charles had done wrong in refusing to receive the money and convey the premises, or that I should not have thought he would have done so, or anything of the kind, to my recollection.

5th. To the fifth cross interrogatory he says: I have not talked with any of these persons on the subject of this suit, or of my testimony, except that Charles Tufts told me, a day or two ago, that he wanted me to come up before the commissioner, and testify. I do not know who is concerned with Mr. Wheeler in his purchase. I have never seen these interrogatories, or heard the substance or import of them before to-day.

EDMUND WRIGHT, JR.

Sworn to before me, the eleventh day of August, 1845.

GEO. S. HILLARD, *Commissioner*.

Charles Tufts to Edmund Wright, jr.—(COPY.)

Know all men by these presents, that I, Charles Tufts, of Cambridge, gentleman, in the county of Middlesex and Commonweath of Massachusetts, in consideration of two thousand dollars paid by Edmund Wright, jr., of Boston, in the county of Suffolk and commonwealth aforesaid, merchant, the receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell, and convey unto the said Edmund Wright, jr., his heirs and assigns forever, a certain piece or parcel of land, situated in Cambridge aforesaid, and bounded as follows, viz: Southeasterly by road leading from Cambridgeport, so called, to the State Powder magazine, and called Magazine street; northeasterly by land of the late L. M. Goldsmith; northwesterly, westerly, and southerly on a proprietor's way or salt marsh to the *the* first mentioned road, or however otherwise bounded, containing about eleven and one half acres, be the same more or less, with all the privileges and appurtenances to the same belonging.

To have and to hold the above granted premises, with the privileges and appurtenances thereto belonging, to the said Edmund Wright, jr., his heirs and assigns, to their use and behoof forever. And I, the said Charles Tufts, for myself and my heirs, executors, and administrators, do covenant with the said Edmund Wright, jr., his heirs and assigns, that I am lawfully seized in fee of the aforegranted premises, that they are free from all incumbrances, that I have good right to sell and convey the same to the said Edmund Wright, jr., as aforesaid; and that I will, and my heirs, executors, and administrators, shall, warrant and defend the same to the said Edmund Wright, jr., his heirs and assigns, forever, against the lawful claims and demands of all persons.

Provided, nevertheless, that if the said Charles Tufts, or his heirs, executors, or administrators, shall pay unto the said Edmund Wright, jr., his heirs, executors, administrators, or assigns, the above sum of two thousand dollars in one year from this date, with interest annually (2000,) then this deed, as also a certain note, bearing even date with these presents, signed by the said Charles Tufts, whereby he agrees to pay to the said Edmund Wright, jr., the said sum and interest at the times aforesaid, shall then be absolutely void to all intents and purposes.

In witness whereof I, the said Charles Tufts, have hereunto set my hand and seal, this twenty-fifth day of February, in the year of our Lord eighteen hundred and forty-three.

CHARLES TUFTS. [SEAL.]

Executed and delivered in presence of us—
THOMAS A. DEXTER,
EDWARD A. DEXTER.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss:*

Boston, February 25th, 1845. Then personally appeared the within named Charles Tufts, and acknowledged the within instrument to be his free act and deed, before me,

THOMAS A. DEXTER, *Justice of the Peace.*

MIDDLESEX, *ss:*

February 27, 1843. Received and recorded by
WILLIAM F. STONE, *Register.*

Cambridge, August 8th, 1845. The foregoing is a true copy of record book 425, page 289.
Attest: WM. F. STONE, *Register.*

Paper marked A, annexed to the deposition of Edmund Wright, jr.
GEO. S. HILLARD, *Commissioner.*

Cambridge, September 12, 1844. I acknowledge full payment and satisfaction of the within mortgage, and do therefore hereby cancel and discharge the same.

EDMUND WRIGHT, JR.

Witness—C. B. STEVENS.

Memorandum of due bills from Charles Tufts to E. Wright. Secured by mortgage, dated February 25, 1843.

October 3, 1840, on demand - - - - -	$350 00
February 24, 1841, on demand - - - - -	400 00
December 10, 1841, at 4 months, renewal of previous note	800 00
December 10, 1841, on demand - - - - -	40 00
January 31, 1842, on demand - - - - -	233 76
	1823 76
Interest to February 25, 1843 - - - - - -	158 92
	1982 68
Paid September 9, 1844, note dated October 3, 1840 -	350 00
Paid September 9, 1844, note dated Dec'ber 10, 1841 -	800 00
	1150 00
Interest on ditto - - - - - - - - -	198 60
	1348 60

Paper marked B, annexed to the deposition of Edmund Wright, jr.
GEO. S. HILLARD, *Commissioner.*

UNITED STATES OF AMERICA,
District of Massachusetts, city of Boston:

On the several days as hereinbefore stated, the aforesaid deponents came before me, and being by me severally sworn to tell the truth, the whole truth, and nothing but the truth, they gave the foregoing depositions, and subscribed the same in my presence, which were reduced to writing by me. These depositions were taken by virtue of the commission hereto annexed, and to be used in the cause therein mentioned,

and all the directions contained in the said commission were carefully observed by me in the execution thereof.

GEO. S. HILLARD, *Commissioner.*

Commissioner's fees - - - - -	$10 00
Deponents' fees - - - - - -	3 75
Travel - - - - - - - -	60

Deposition of Solomon B. Morse, jr.

CIRCUIT COURT OF THE UNITED STATES,
District of Massachusetts, in chancery:

ANNA TUFTS
vs.
CHARLES TUFTS and EMERSON WHEELER. } In equity.

Interrogatories on behalf of the defendants, to be proposed to Solomon B. Morse, jr., of Oxford, in the State of Maine, gentleman.

1st. Are you acquainted with the parties to this suit, either, and which of them? And how long have you known either, and which of them?

2d. Are you acquainted with the homestead farm, formerly of Peter Tufts, junior, in Cambridgeport? If yea, who has resided there from 1828 to the present time?

3d. Whether or not you ever occupied a farm at Westborough, in Massachusetts? If yea, when, and how long, and who owned the said farm while you occupied it? And whether or not said Charles Tufts purchased the said farm? If yea, for whom did he purchase it, and at whose request, and on what terms?

4th. Whether or not the said Anna Tufts visited you at the said farm in Westborough, in the fall of the year 1838? If she did, at what time, and what did she state was the object of her visit? Whether or not did you then have any conversation with her in which she spoke of any claim which she then had, or had previously had, to purchase the said premises in Cambridgeport of said Charles Tufts? If you had any such conversation, please state all you recollect of it.

5th. If you say, in answer to the last interrogatory, that said Anna Tufts had any such conversation, please to say whether or not she spoke in it of any, and if any what, circumstances which might render it necessary for said Charles to sell the said premises in Cambridgeport; whether or not she spoke of still having, or having then lost, all claim to purchase the said premises of said Charles; and what did she say, if anything, on the subject.

6th. Whether or not, in any such conversation, she spoke of what said Charles had done for her, or of its being possible or impossible for her to repay him for what he had done? Whether or not she spoke of any, and if any what, inconvenience which she should suffer, in case said Charles should be obliged to sell the said premises in Cam-

bridgeport? Whether in speaking of any claim she had, or had had, upon said Charles to purchase the said premises, she spoke of it as a favor allowed her, or as a legal claim which he could not resist? Please to state all she said, if any thing, on all these points.

7th. Whether or not, in any such conversation, she spoke of any settlement of accounts she had made with said Charles? And what did she say, if any thing, in regard to any such settlement?

8th. Whether or not, in any such conversation, in speaking of any such settlement, she spoke of said Charles having given up any claim or claims he had against her; and did she say any thing, and if any thing what, as to the amount or nature of such claims? Whether or not she mentioned any thing, and if any thing what, as to any, and if any what, claim she had had against said Charles, which she had given up as a consideration for his relinquishing any claims of his against her? Please state all the conversation between you and her on these points.

9th. Whether or not, in any such conversation, in speaking of said premises in Cambridgeport, she said she had relinquished to said Charles all her claims on the estate, or any thing, and what if any thing, to that effect; and what reason or consideration, if any, did she state for her making such relinquishment? Please state all the conversation between you and her on these points.

10th. Whether or not, in any such conversation, she spoke of the length of time for which she was originally to have a claim upon said Charles to purchase said premises in Cambridgeport? If she did, please state all the conversation between you and her on this point.

11th. Whether or not you had any conversation with said Anna Tufts at any time, and if at any time when and where, in which she mentioned that said Charles had mortgaged said premises in Cambridgeport? If she did, please to state the whole conversation which took place; to whom, if any one, she said he had mortgaged the same; and whether or not she made any, and if any what, inquiry of you as to the effect which said mortgage would have upon any and what claim of her upon said Charles.

12th. Whether or not you have had any conversation with said Anna Tufts, at any time, at Cambridgeport, since this suit was commenced, in which she gave any history of the origin of the claim she set up against said Charles Tufts? If you had any such conversation, please state the whole of it, and when it took place.

13th. Whether or not, in any such conversation, any thing was said as to the profit or loss which might accrue on the purchase of said premises in Cambridgeport? If any thing was said on the subject, please state all that was said.

14th. Whether or not, in any such conversation, did she say any thing of a settlement of accounts between her and said Charles? If she did, please state the whole conversation on that subject.

Lastly. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause,

or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

S. E. SEWALL,
For Ch's Tufts and E. Wheeler.

Cross interrogatories to be administered to Solomon B. Morse, jr., a witness proposed to be examined on the behalf of the defendants.

1st. Were not the premises in Westborough, mentioned in the third direct interrogatory, incumbered by a mortgage to the Massachusetts Hospital Life Insurance Company, in the month of May, 1835, for 3500 dollars and interest, or what sum? Did not Ammi C. Lombard, of the city of Boston, in said district, at or about that time, and while the premises were so incumbered, lend you, as a favor, on simple interest, four thousand dollars, or what sum, upon your note or notes, and a subsequent mortgage executed by you, of the same premises, or how otherwise? Did you not take the mortgage deed from the said Lombard, at or about the time, and promise him that you would on the next day, and shortly after, procure the same to be recorded in the registry of deeds for the county of Worcester? Did you not afterwards, and before procuring the same to be recorded, and without the knowledge of the said Lombard, execute a mortgage or mortgages of the said premises to one Bolles, or some person or persons, for the sum of two thousand one hundred and fifty dollars, or what sum, and allow the same to be recorded before the mortgage of said premises to said Lombard was recorded? Was not the said Lombard thereby obliged to pay the said sum last mentioned and interest, or what sum, to clear the said premises of all incumbrances, subsequent to the said mortgage to the said Life Insurance Company? Did not the said Charles Tufts, the defendant, pay for you to said Lombard, or some other person, about two thousand dollars, or what sum, for interest on the said mortgages, or some of them, or on notes given to said Lombard, or held by him, or some other person or persons? Did not the said Lombard insist, for his security, on taking possession of said premises? Did not you promise to give the said Anna five hundred dollars, if she would intercede with said Charles, the defendant, to take an assignment of said mortgages, and take said Westborough estate, in order that you and your family or relations might not be turned out of possession thereof? Have you ever paid her that sum? Have you ever paid the said Charles any and what part of the interest aforesaid? Did not said Charles take an assignment of said mortgages and take said estate and premises, and allow you or your family or relations for some time to remain in possession thereof? Was not the same finally sold? Did the same bring more than thirteen hundred dollars, or what sum, above the mortgage of the Life Insurance Company? Has not the said Charles charged you with over five thousand dollars, or what sum, for a loss on the said estate, or for a just claim upon you of some kind? Are you not indebted to the said Charles, and have you not been indebted to him,

in more than seven thousand dollars, ever since and before this suit in equity was commenced? Are you not dependent upon the forbearance of the defendant, or have you sufficient property to pay your debts? Did you not give to said Charles, on the 12th June, 1841, or about that time, and when, your promissory note for four thousand dollars, payable in six years with interest. Is it paid, or does he hold it now? Do you not live on a farm or place belonging to said Charles, in Oxford, in the State of Maine? Are you not under obligations to said Charles? Have you not said that you must or should take up for him, or that you must or should aid or assist him in the above mentioned suit? Did not the said Anna tell you, when at Westborough, as referred to in the fourth direct interrogatory, that she had declined to call on Charles Tufts for money many times when she wanted it, because he was pressed for money, since he had been obliged to pay out so much for the Westborough estate on your account, or to hold the estate at your desire? What is and has been your occupation far the last ten years?

2d. Have you not aided or attempted to aid or assist the said Charles Tufts in or about his defence in the above mentioned suit? Did not you see his answer before it was completed? Did you not make suggestions to him respecting it? Did you not, before it was filed or prepared, or afterwards, call on the plaintiff, pretending to be her friend, with a view to draw confessions from her which might be available in the case? Did not you inform said Charles that you had or would do so? Did you not endeavor to make the plaintiff abandon her suit, or make a compromise with said Charles? Did you not tell her Charles would contend to the last, and carry it to the extent of the law; and that it would last a long time, and probably six years; and that it would go against her, or something similar, and what, to that effect? Did you not give her to understand that the suit would be very expensive and ruinous? Did you not tell her she had forfeited her interest in the estate by failing to pay interest? Did you not go to Ammi Cutter, one of the plaintiff's witnesses, or employ some one to go to him, to inquire what he would testify? Did you not tell, or employ some one to tell, him that, if the plaintiff should prevail in this suit, Charles Tufts would have and make a claim against him upon a warranty in Cutter's deed of the premises at Cambridgeport to Charles? Did you not tell, or employ some one to tell, said Cutter that, if the plaintiff should succeed in the said suit, it would ruin him, said Cutter, or something, and what, to the like effect? Have you not seen and conversed with other, and what, witness for the plaintiff since the interrogatories of plaintiff to them were written? Have you not inquired of them what they would testify? Have you not seen the interrogatories to the plaintiff's witnesses, or to some, and which, of them, or the cross interrogatories, or some, and which, of them? Have you not consulted and advised with said Charles, or his counsel or solicitors, respecting what the plaintiff's witnesses would say, or respecting what cross interrogatories it would be expedient to put to them? How many times have you conversed with the defendant, or his counsel or solicitor, touching this suit,

or the matters in controversy therein? How many times have you come from Maine to Boston since this suit was commenced? Have you conversed with the defendant, or his counsel or solicitor, on the subject of this suit, every time you came to Boston since the suit? Did you come to Boston at the request of the defendant, about this suit, or voluntarily? Have you not, at the several times when you were here, been employed in assisting said Charles in the defence of this suit, or what other business has brought you here? Have you not seen and conversed with said Wheeler respecting this suit, or with some one, and whom, concerned with him in his alleged purchase of a portion of the said estate in Cambridgeport? Have you not advised and consulted with him, or some such person, and whom, touching the same suit? Have you not, for or on behalf of the defendants, or one of them, called on one or more, and how many, persons, and whom, to learn what they could testify in the case? Have you not reported to defendant or his counsel what you found out? Have you not, at their request, or the request of one of them, and of whom, or voluntarily, called on the plaintiff to converse with her respecting the matters in controversy in this suit, or touching her claim? If so, for what purpose did they or he wish you to call on her? Have you called on and conversed with Daniel Cummings and Richard Perkins, or either, and which, of them, and when, respecting this suit, or the testimony which they would give relative to the matters in controversy, or either of them? If so, at whose request? Have you reported to the said Charles, or to his counsel or solicitor, or to any of the defendants, or any one concerned with or for any of them, and to whom, the conversations, or any part thereof, you have had with the plaintiff, or any of the proposed witnesses or persons with whom you conversed?

3d. Did not said Charles owe said Lombard in part for the Westborough estate, transferred to said Charles at some time heretofore, and was it not as recently as 1840, or later? And did not said Charles, without the knowledge of the said Anna Tufts, give a mortgage of said premises, or some part thereof, to said Lombard, as security for such or some debt? Was it not done at your suggestion to Charles? Was not said Anna afterwards informed thereof, and did she not complain to you respecting the same? Was it not in 1842, or at what time? Did you not, on that, or some such, and what, occasion, pretend to be friendly to her, and undertake to act for her and advise her touching the matter? Did you not ask to see, and did you not look at, said Charles' books of account, or some, and which, of them? And did you not tell her she need not feel worried about the matter? Did you not tell her she had nothing to fear from said Charles? Did you not tell her that his own books did show that she had an interest in the said premises in Cambridgeport? Did you not remark to her upon the items of "gravel," and of "interest," as showing she had an interest, or that the estate did not belong exclusively to said Charles; that his having the taxes charged to him would not affect her interest? Did you not tell her that everything stood fair for her interest; that there was no limitation of time to

redeem, as far as you saw; that if she ever had any difficulty with Charles about it, to call on you and you would assist her? Did you not tell her that said Charles had no right to mortgage the premises to said Lombard? And did you not advise her to notify said Lombard in writing to that effect? And did you not draw up for her a writing to that, or what, effect, to be sent to said Lombard? Was not an attachment put on the said premises at Cambridgeport, by said Lombard, as the property of said Charles? Did it not, and how, come to the knowledge of the plaintiff? Did you not, on that occasion, or respecting that matter, undertake to counsel and advise with her, as her friend and adviser? Did you not then tell her it appeared, from said Charles' books, that she had an interest in the premises; that the items of "interest," and "gravel" show it; that there was no limitation to her time to redeem, as far as you saw; that she needed not fear but that she could make out her claim; that Charles could do nothing to defeat it; that he could not turn her off from the premises; that his having the taxes charged to him could not effect her title; that everything appeared fair for her interest; that she need not feel worried; that she had nothing to trouble herself about; that if she ever had any difficulty, to call on you and you would assist her? And did you not advise her to notify said Lombard that she had an interest in the said premises; and please look at the paper writing, marked M, now presented to you, and say whether or not it is not in your proper handwriting, and whether it was not drawn up by you, and delivered to her for such purpose, on such occasion, or how otherwise? And if you say that you have not, on the occasions above referred to, used such language as aforesaid to her, declare whether you have not used language to the same or the like import or effect, in substance, and what it was.

4th. Whenever you have had any conversations with the said Anna Tufts, have you not pretended to her that you was her friend; have you not affected to counsel and advise her; have you not given her to understand that you felt bound to do all in your power, consistently with truth and justice, to assist her; and that you were seeking her advantage and benefit in all your inquiries and conversations with her; and have you not, in some conversation, told her she did right to contend for her interest in the said premises? And have you not, on several occasions, said that you could not say anything against her interest therein, or that you could say nothing that would do her any harm? Have you not informed the said Charles, or his counsel or solicitor, of what you would testify in this case? Was it not done by you voluntarily, or at whose request? Was it after or before this suit was commenced? When, and on what occasion, and when first, and whether voluntarily, or at whose request, did you make any statement to said Charles, or his counsel or solicitor, respecting what you could or would testify in this case? Have you seen the interrogatories proposed to you on the part of the plaintiff, or on the part of the defendants? If so, when and where, and who was present?

5th. If, in answer to any of the direct interrogatories, you speak of

any declarations of the said Anna to the effect that she had then no right or interest in the premises at Cambridgeport, or that it had expired or would expire, declare whether you recollect the precise words she used; whether you state them or not; whether you recollect and state the whole which she said at the time, touching the same subject; whether you can recollect all that was said in connection with it; and whether you can recollect what preceded and followed immediately; and whether you state all that preceded and followed; and whether you recollect and state the occasion, and all the circumstances leading to and attending the conversation and declaration; and when and where it was, and who was present?

6th. Did you come from Maine to testify in this cause at the request of said Charles, or voluntarily? And how long have you remained here the last time you came? And had you any other, and what, business here than to attend to the above suit, or give your testimony therein? Did you not, in or about the summer or autumn of 1844, or at some time since 1838, and when last, inquire of Elbridge Tufts whether his mother had come to a settlement with Charles Tufts, or something to that effect? And did you not advise and tell him that his mother ought to make Charles Tufts give her a writing, or get a writing from said Charles, and not allow the matter to rest any longer in verbal understanding or agreement, or something of similar import or like effect?

RAND, WARREN & FISKE,
For plaintiff.

A true copy.
Attest: FRANCIS BASSETT, *Clerk.*

Answers of Solomon Morse.

I, Solomon Morse, of Oxford, in the State of Maine, gentleman, of lawful age to testify, on oath depose and say, in answer to the interrogatories and cross interrogatories to me addressed and annexed to the commission prefixed hereto.

1st. To the first he says: I am acquainted with Anna Tufts and with Charles Tufts, and have been acquainted with them from about (1829) eighteen hundred and twenty-nine. I do not know Emerson Wheeler.

2d. To the second he says: I have never known Peter Tufts, but I have known a farm in Cambridge, reputed to have been the farm of Peter Tufts, and on this farm Mrs. Tufts or her family have resided since 1829.

3d. To the third he says: I occupied a farm in Westboro', Massachusetts, from May, 1835 till July or August, 1841. I purchased the equity of redemption in 1835; in 1836, I conveyed my interest to my father, and in the same year my father conveyed it to Ammi C. Lombard, of Boston, and he became the owner of the estate; in 1837, Lombard conveyed to Charles Tufts, who gave for it three notes of five hundred dollars each, payable with annual interest, I think on six, twelve, and eighteen months; and one other note, of about thirty-eight hundred and ninety-six dollars, payable with interest in five years, all

secured by mortgage of the premises; and the conveyance was subject to two other mortgages, (one of thirty-five hundred dollars, to the Hospital Life Insurance Company, and one to Mrs. Biscoe, for five hundred and seventy dollars,) made by previous owner, John Henry. Mr. Charles Tufts made this purchase at the intercession of Mrs. Anna Tufts, and at her request; and he gave me a bond, conditioned that if I paid the notes and interest as they became due, and hold him harmless, and paid some small demands, amounting to about seven hundred dollars, he held against me, that he would convey the farm to me.

4th. To the fourth he says: The said Anna Tufts did visit me in the fall of 1838, at said farm in Westboro', in company with Charles Tufts. Both called at our house, on Christmas day, 1838, and then Mrs. Anna Tufts said she regretted that she had attempted to assist me. I had not been able to pay the notes and interest as they had become due, and Charles Tufts had been obliged to take them up, and it was evident I should not be able to take up those that were to come due, and that Charles Tufts would be obliged to provide for them. Mrs. Tufts said that Charles had been led into great trouble, and that if he was obliged to raise money to pay for the farm at Westboro', he would be obliged to sell the farm at Cambridge to do it; that she had had a settlement with Charles, in which he had given up to her about fifteen hundred dollars, that she had given up all hopes of redeeming the farm at Cambridge, and of receiving any funds from an equity suit in New York, from which she had expected something, and that if Charles had to sell the farm at Cambridge, she and her children would be turned out of doors, and this consequence would follow from her attempts to aid me; and she urged me to something to prevent or reduce Charles' loss, and she wished me to give up the farm, and let Charles take it and employ some one else to carry it on. I objected to this, because I wished Charles Tufts to have all the income of the farm, if any, to sell it at any moment an opportunity offered, and I considered myself bound in honor, if I was ever able, to make up his loss, and hold him harmless. Mr. Charles Tufts was present, and heard these things said; they were said in different conversations during that visit.

5th. To the fifth he says: I have answered this as fully as I can, except that Mrs. Anna Tufts did say she had given up all hopes, and all claims of redeeming the Cambridge farm. She said there was no possibility of her doing it; that she had settled with Charles, and he had given her up about fifteen hundred dollars. She gave as one of the reasons why she could not redeem or buy the Cambridge farm, that she had given up all hopes of receiving anything from the chancery suit in New York.

6th. To the sixth he says: In these conversations as well as others, she spoke of the great good Charles had done her; that he had kept the family together, and that she never could repay him for what he had done.

She said if Charles was obliged to sell the farm at Cambridgeport,

she and her family would be turned out of their home; that she would have no place to go to.

In the conversations of 1838, I understood her that all matters between her and Charles were settled, and that she had given up all hope and claim of redeeming. In previous conversations she had told me that there were no papers between her and Charles, and no obligation on him, but that he had agreed that if she could pay for the farm she should have it.

7th. To the seventh he says: I cannot answer this more fully than I have.

8th. To the eighth he says: The said Charles and she had had a settlement, and Charles had given up to her fifteen hundred dollars. She did not say she had given up anything to him, nor did I understand she had any claim against him to give up.

9th. To the ninth he says: She said she had relinquished all hopes and claims of ever redeeming or purchasing the farm in Cambridge, and had had a settlement with Charles, and he had given up to her fifteen hundred dollars. She did not state any consideration for which she made the relinquishment, nor any claim she had against Charles, and the failure of getting anything from New York she stated as a reason why she could not purchase the farm. I have now in this, and the previous answers, stated the conversations of 1838 on this point as fully as I can.

10th. To the tenth he says: In the conversation in 1838, nothing was said about any time she had. Its whole tenor was, that all things between her and Charles, as to her purchasing the farm, were at an end.

11th. To the eleventh he says: In the winter of 1842–'3, I think it was, I went to Mrs. Tuft's house, in Cambridge, on her request. She then told me that when Mr. Cutter bought the estate it was agreed between him and her, that whenever she could redeem the estate she might. (Cutter had bid off the estate at Cambridgeport, when Mrs. Tufts, as executrix of her husband, sold it.) She said Charles Tufts had been mortgaging it, and she asked me what effect this would have on her agreement with Cutter, and what she could do. I told her she had better give notice of her agreement with Cutter, and that under it she claimed a right to redeem the estate, and I wrote a form for her for that purpose.

12th. To the twelfth he says: That in March last Mrs. Tufts came to my father's house, and requested me to go to her solicitor with her, and I went with her there, and remained some time, and then went to her house in Cambridgeport with her, and then the whole matter was talked over from the beginning. She said that previous to the sale by her, as executrix, she applied to every one for money; that she applied to her kinsman, Mr. Cutter, who told her he would speak to his partner, and see what could be done; that on the morning of the sale he came out there, and said he would buy it for her, and she authorized him to bid twenty-five hundred dollars; that when the bid had reached twenty-

five hundred dollars, and he continued to bid, she stepped to the door and said to him, "Mr. Cutter, you know who you are bidding for now, and he said he did, and he finally bid off the estate at about three thousand dollars. After he had bought it, a man by the name of Crossman, I think she said, came and offered Mr. Cutter one thousand dollars for his bargain, and Mr. Cutter asked her if she would sell for the thousand dollars; and she said no, "that she had rather redeem the estate;" that she continued to live there, and never paid the interest to Mr. Cutter. Afterwards, when Mr. Cutter had to sell, she tried to get the money, and Charles Tufts bought the estate. Mr. Cutter had also bought a piece of salt marsh, which brought his whole purchase up to about thirty-six hundred dollars. She lived there, and Mr. Charles Tufts paid the interest, &c., and charged it to her. That things remained so, and she was for a long time unable to get a settlement with Charles; that one night in 1838 he came home, and she insisted on a settlement, and said he should not get a meal in the house till it was made. Mr. Tufts then made out his account, and they were employed on the settlement till two o'clock in the morning; that on the settlement he gave up fifteen hundred dollars to her, and there remained a balance of five hundred dollars due to him. She said she expressed her gratitude to him for the release of fifteen hundred dollars, and for all he had done for her and her children. She said, after the settlement she asked him if she could then have the estate, and he replied, yes, when you pay me for it. I asked her what induced Charles to give up to her the fifteen hundred dollars, and she said it was a gift to her; that Charles had his reasons for it, and she always felt grateful to any one who gave her anything. She said that previously to 1840, I think, the taxes had been assessed to her; since then to Charles. That since the settlement she had asked him to fix his price for the whole, and for parts, but he never would, though he always said that he was ready to sell as soon as she could pay him for it. She said she had offered to give up the part of the farm on the western side of the road, if he would set a price on the eastern side, but he never would.

13th. To the thirteenth he says: In the conversation with Mrs. Tufts, I asked her if, in the agreement with Cutter, she was to bear the loss on the purchase, if any occurred. She said no; that Mr. Cutter run the risk of the loss; that if the estate rose in value, she was to have the benefit of it, but was not to bear any loss.

14th. To the fourteenth he says: I have answered this as fully as I can.

Lastly. To the last interrogatory he saith: I have no knowledge of any thing I have not stated, that now occurs to me.

Answers of said deponent to the cross interrogatories.

1st. As I have stated, the Westboro' farm was subject to a mortgage to the Hospital Life Insurance Company, for $3500 and interest, at said time. Ammi C. Lombard did lend me four thousand dollars, on interest, with a knowledge of the above mortgage for $3500, and of

the mortgage to Mrs. Biscoe for $570. I gave Mr. Lombard my notes, and a mortgage of the premises, subject to those incumbrances. I took the mortgage from Mr. Lombard, and agreed, as soon as I got the conveyance made to me, to have the mortgage recorded. After I had received the sum of four thousand dollars, and on the same day, I paid it to Josiah Nickerson, and took his receipt for so much money paid on account of the purchase of the estate, and of the personal property then on the farm, belonging to Nickerson, (amounting in value to about twelve hundred dollars.) At the time of making the agreement of the purchase of the real and personal property of Nickerson, it was understood that I should pay the sum of four thousand dollars in money, and that I should secure the payment of the balance which would be due to Nickerson by a fourth mortgage on the real estate and on the personal property bought with it. After I had paid the money and taken the receipt of Nickerson on account of the purchase, Nickerson refused to accept the mortgage for the balance, as agreed upon, and I with great difficulty prevailed upon him to make the conveyance to me, and take a mortgage which was recorded before Lombard's. Nickerson demanded the money of me. The mortgage to Nickerson was, I believe, for about twenty-one hundred and fifty dollars. Lombard did afterwards take up the mortgage made to Nickerson. I settled with Lombard, and conveyed to him the real and personal property, and on a settlement of all our accounts there was a balance due him of four hundred dollars, for which I gave my note, which is still unpaid. The real estate and the personal property were taken by Lombard at an appraisement; the real estate was appraised by Levi Lincoln and Rejoice Newton, and the personal property by Phineas Gleason and James Fay. Charles Tufts bought the real and personal property from Ammi C. Lombard, at about five hundred dollars discount from the appraisal, and gave notes and mortgages, as stated above. He bought the estate for my benefit, at the intercession of Mrs. Tufts; and if I paid him the price to him, and five hundred dollars for the accommodation, he was to convey it to me. What sum Mr. Tufts has paid for interest I can't say now. I don't positively know what sum he has paid as principal. Mr. Lombard did insist on taking possession of the estate for his security, and it was conveyed to him. I never agreed to pay Mrs. Tufts any thing. I agreed to pay Charles Tufts five hundred dollars if he would take the estate; and I was to pay this five hundred dollars whether I redeemed it or not. My reason was, that my family and my father's family might not be turned out of their home. I have never paid Mrs. Anna Tufts said sum, for I never promised to. I have not paid said Charles any part of said interest. Mr. Tufts bought the estate of Mr. Lombard, and under the agreement I have mentioned I remained on it till July or August, 1841. The estate was sold to Paul Adams, of Boston, who assumed the payment of the incumbrances then on the estate, amounting to about seventy-five hundred dollars. For the real estate, Adams paid about $8097, and for the personal property, $1059, including the incumbrances, for moneys advanced to me, and on matters arising out

of this estate. My debt to Charles Tufts is over five thousand dollars; the account he rendered to me was about forty-seven hundred dollars, I think, in 1841. The interest and other matters would make the debt nearly seven thousand dollars; and the debt was probably that sum last January, when this suit was commenced.

I have not property enough to pay Charles Tufts. I did give to Charles Tufts my note for four thousand dollars, in June, 1841. It is not paid, and makes a part of my debt to him. I presume he holds it now, though I do not know. I live in Oxford, in the State of Maine, but not on a farm belonging to Charles Tufts. I consider myself under obligations to Charles Tufts. I have not said that I must or should aid said Charles in said suit, or any thing to that effect. I do not know that Mrs. Tufts ever said that she had forborne to call on Charles for money because of his obligations on account of the Westboro' estate, but she said it might be a great injury to her, by turning her out of doors, as I have stated before. I am an accountant, but have for ten years done any thing I could.

2d. To the second he says: I have frequently asked Mr. Chas. Tufts about his suit, and at his request I once went to Messrs. Fletcher & Sewall's office, and then I advised Mr. Ammi Cutter should be made a party defendant to the bill. I have no recollection of any act of mine which could be called aiding him, Mr. Tufts, in his defence. I saw Mr. Tufts copying his answer, and read it over. I do not recollect that I made any suggestions in relation to it. I never called on Mrs. Tufts to draw from her confessions; she came to my father's house, and asked me to go to her solicitors. I went, and thence to her house, as I have stated; but I never have attempted to get confessions from her, and I have never gone to her for that purpose, nor did I ever tell Charles Tufts that I would go to her to get confessions. I told him I would go to her, and see if I could make her settle, and to see what she wanted. I went also, at Charles' request, to find the advertisement of the sale of the farm by Cutter and Perkins, in 1830–'1. I did endeavor to make a settlement or compromise between Mrs. Tufts and Charles Tufts, but not at his request. I have no recollection of using the language in the question, but I did tell Mrs. Tufts these suits lasted frequently a long time, and might be very expensive. I did not say it would go against her, but I said if it went against her it would be ruinous to her. I have no recollection of having told her she had forfeited her right by not paying interest; but I remember, I think, asking the question of her solicitor, Mr. Rand. I did not go to Ammi Cutter. My father went there, and on my advice, after Mrs. Tufts called at our house, and the object was to effect a settlement, and not have the parties waste their money in a lawsuit. When Mrs. Tufts was at our house all the matter was talked over, and, among other things, the account and ability of Mr. Cutter, on his general warranty. But I have no recollection of telling my father, or any one, to say or speak of this to Mr. Cutter, or to say it would ruin him, &c., as set down in the question, or any thing to that effect. I have not, to my knowledge, conversed with any

of the plaintiff's witnesses, knowing them to be such, nor do I know when her interrogatories were prepared, nor have I seen them to my knowledge; nor have I seen the cross interrogatories. At the interview, at Cambridgeport, Mrs. Tufts told me what she could prove by her daughter, and by Mr. Cutter; and I think I told this to Charles; as, on the other part, after I had seen Charles' answers, I told Mrs. Tufts what his answers would be, and to each I endeavored to give a fair view of the case, as I viewed it. I cannot recollect advising with Charles, or his counsel, as to cross interrogatories. I have often asked Charles how he got along with his suit. I may have seen his counsel half a dozen times, at most. I never came from Maine to Boston on account of this suit. I came to Boston in January, and again in March, and again in May, and again in this month of June, on my present visit. I have spoken with Charles whenever I met him about this suit, and I have seen him, more or less, every time I came to Boston; not on this business, however, but on other matters. I saw his counsel in March, after the interview with Mrs. Tufts, and in May, and then conversed with them about this suit, and asked, and sought to know, if there was any prospect of a settlement. The interview in May was at the request of Mr. Tufts, and I was inquired of by the counsel as to the conversation at Westboro', and its circumstances. I came to Boston not at the request of the defendant, but to attend to business of my own, which has no connection with this suit. I have not, when here, rendered to Charles any other assistance than that I have mentioned. I have been brought here by a suit in the United States court of my own, and other business of my own. I do not know that I ever saw Emerson Wheeler, nor have I ever conversed with any one connected with him, except his counsel, Messrs. Fletcher & Sewall, with whom I have conversed as above stated; nor have I called on any one for the purpose of hearing what they could testify in the case. I never, at the request of defendants, or either of them, called on the plaintiff, and I never called on the plaintiff to learn any thing that could be used to her disadvantage. In March last I was at her house, as I have stated, and conversed with her as stated; she then requested me to call again at her house, to meet some persons by the name of Russell, who wanted a claim of theirs looked up. I went, and these persons were not there. I found Mrs. Tufts' manner changed towards me, and had very little conversation with her. I remained only long enough to rest me, and I have not seen her since. Daniel Cummings I do not know, and have never conversed with him. I went to Tufts' place of business, and there accidentally met Mr. Perkins; and this suit being introduced, I heard Mr. Perkins say what his connection with the property had been. I asked him in what papers the sale was advertised; no one requested me to converse with Perkins, and the meeting was casual. In May, I met Mr. Perkins accidentally in Commercial street, and asked him how the suit got along. I have answered as fully as I can as to all reports of conversations I made to Mr. Charles Tufts or his counsel, or any one concerned.

3d. To the third he says: I believe Charles Tufts owed Lombard,

on account of the Westboro' estate, as late as 1841. I know nothing of the mortgage referred to as made by Charles Tufts to Lombard, except what Mrs. Tufts told me, as I have stated. Such mortgage was not made at my suggestion. Mrs. Tufts told me of it. How she got her information, I know not; she did complain to me of it in the winter of 1842–'3. I was then, and am now, friendly to her. I made no pretence about the matter; she stated her case, and I advised her, as I have before stated. I have not any recollection of ever having seen Charles Tufts' books of account. I told her that Charles Tufts was an honest man, and would do right by every one, and that she had nothing to fear from him as to his taking any rights from her; and I never told her his books showed any thing; I had never seen his books. She told me she had sold gravel, and Charles had charged interest to her instead of rents, in the account. I told her that made no difference in her claim on Mr. Cutter, and that her claim would not be affected by the charge of taxes. I told her that on her statement of her bargain with Mr. Cutter, that no limitation of time was made to her right to redeem; if she could prove it, I did not see how she could be cut off. I told her that if she had any difficulty with Charles, I would endeavor to settle it. I do not recollect that I told her Charles had no right to mortgage the estate, but I advised her to notify Lombard that she claimed a right to redeem the estate; and I drew up a writing for her, as I have stated. I know nothing of the attachment, or the plaintiff's knowledge of it. I advised with her as a friend, feeling under great obligations to her. The rest of the question I have answered as fully as I can, except that no paper marked M being now produced I cannot testify in relation to it: when it is produced, I will speak to it. I have declared the language I used as substantially as I could.

4th. To the fourth he says: In all my conversations and interviews with the plaintiff, I have been as friendly to the plaintiff as to the defendant. I have felt obliged to her, and to him too, and so feel now, and have labored to settle their difficulties, and made no pretences to either. I never have told the plaintiff I could say any thing for or against her. She told me, at the interview in March, that she depended on me very much to make out her case. I told her then I could favor neither party, and could only speak what I knew. Charles Tufts asked me to go with him to his counsel, and I went with him, as I had before gone with her to counsel. I was asked what I knew about the case, and I told. It was after the suit was commenced, and was in March, I think. This was my first statement to Tufts. I never saw the interrogatories of either party, except in the hands of, and as they were read to me by, the commissioner, one by one.

5th. To the fifth he says: In my report, made in answer to the direct interrogatories, of conversations with the plaintiff in relation to the matter inquired of, I have stated the substance of the words used, and the times and circumstances, as fully as I could. To give the words would be impossible.

6th. To the sixth he says: I did not come here on this suit, but

other business of my own, which has detained me from my arrival on 17th June, and will for some days longer. In 1844 I saw Elbridge Tufts at his cellar, and he told me Charles had sold some of the estate for a great deal less than its value, and that his mother was very angry, and did not know what to do about it. I told him that if his mother had any claim against Charles, it was best for her to have it settled at once, and not lie any longer; that I knew Charles Tufts would do what was right, and it had better be delayed no longer; and I do not now recollect that I said any thing more.

The paper marked M, and by the commissioner E G L, being now produced to me, appears to be the form I wrote for Mrs. Tufts, on her statement that the land had been attached, to be given to Mr. Lombard.

The statements above made are according to the best of my present recollection.

S. BRADFORD MORSE, JR.

UNITED STATES OF AMERICA,
District of Massachusetts, first circuit:

This twenty-seventh day of June, A. D. eighteen hundred and forty-five, personally appeared before me the above named deponent, who, after being sworn to speak the truth, the whole truth, and nothing but the truth, in relation to the cause for which said deponent's deposition was taken, was examined by me upon the interrogatories and cross interrogatories annexed to the commission hereto prefixed, and to him addressed, and his answers thereto written down by me in his presence, after being carefully read over by him, were by him subscribed in my presence, as and for his deposition. Taken by virtue of said commission, to be used in the action therein specified.

EDW. G. LORING,
Commissioner.

The execution of this commission appears by the schedule hereto prefixed.

EDW. G. LORING,
Commissioner.

Fee, - - - - - $20.

(M.)

CAMBRIDGEPORT, *February* 6, 1843.

E. G. L. to Mr. AMMI C. LOMBARD:

SIR: I find, by examination of the records of Middlesex county, that you have attached the real estate in this place occupied by me. I hereby notify that I claim an interest in this estate, and request you to release the same from attachment.

DEED.—*Charles Tufts to Emerson Wheeler.*

Know all men by these presents, that I, Charles Tufts, of Cambridge, in the county of Middlesex, and Commonwealth of Massachusetts,

merchant, in consideration of seven thousand five hundred dollars, paid by Emerson Wheeler, of Brighton, county and commonwealth aforesaid, yeoman, the receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell, and convey, unto the said Emerson Wheeler, his heirs and assigns, forever, a certain piece or parcel of land, situated in Cambridge aforesaid, and bounded as follows, viz: southeasterly by road leading from Cambridgeport, so called, to the Powder magazine, and named Magazine street; northeasterly by land and rope-walk of William and James Arkerson; northwesterly, westerly, and southerly, on a proprietors' way or salt marsh, belonging to the heirs of Ephraim Cutter and others, to the first mentioned road, or however otherwise bounded, containing twelve acres, be the same more or less, with all the privileges and appurtenances to the same belonging.

To have and to hold the above granted premises, with the privileges and appurtenances thereto belonging, to the said Emerson Wheeler, heirs and assigns, to their use and behoof forever. And I, the said Charles Tufts, for myself and my heirs, executors, and administrators, do covenant with the said Emerson Wheeler, his heirs and assigns, that I am lawfully seized in fee of the afore granted premises; that they are free from all incumbrances; that I have a good right to sell and convey the same to the said Emerson Wheeler, as aforesaid; and that I will, and my heirs, executors, and administrators shall, warrant and defend the same to the said Emerson Wheeler, his heirs and asssigns, forever, against the lawful claims and demands of all persons.

In witness whereof, I, the said Charles Tufts, and Elizabeth W. Tufts, wife to the said Charles, in token of her voluntary relinquishment of dower in the premises, hath hereunto set our hands and seals, this ninth day of September, in the year of our Lord eighteen hundred and forty-four.

CHARLES TUFTS, [L. S.]
ELIZABETH W. TUFTS. [L. S.]

Executed and delivered in presence of us—
H. M. CHAMBERLAIN.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex, ss:*

September 9th, 1844. Then personally appeared the above named Charles Tufts, and acknowledged the above instrument to be his free act and deed. Before me,

H. M. CHAMBERLAIN,
Justice of the Peace.

Middlesex, ss:

September 9, 1844. Received and recorded in the registry of deeds, book 448, page 273.

Attest: WM. F. STONE, *Reg.*

Agreements made a rule of court.

In the circuit court of the United States, for the first circuit and district of Massachusetts, in chancery.

Between ANNA TUFTS, plaintiff,
and
CHARLES TUFTS & EMERSON WHEELER, defendants.

Whereas the parties, plaintiff and defendants, have entered into an agreement that the following instruments, extracts, and writings may be read as exhibits in the above cause, at the hearing, without further proof: That is to say, a deed of Anna Tufts, the plaintiff, as executrix, to Ammi Cutter, dated the 22d day of September, A. D. 1828, acknowledged before Isaac Fiske, a justice of the peace, and recorded in the registry of deeds for the county of Middlesex, book 284, page 11; a deed of Anna Tufts, the plaintiff, as executrix, to Daniel Cummings, dated the 22d day of September, A. D. 1828, acknowledged before Isaac Fiske, a justice of the peace, and recorded in the registry of deeds for the county of Middlesex, book 284, page 14; a deed of Daniel Cummings, aforesaid, with release of dower by Elizabeth, his wife, to Richard Perkins, dated the 1st day of January, A. D. 1831, acknowledged before William Minot, a justice of the peace, and recorded in the registry of deeds for the county of Middlesex, book 301, page 512; a deed of said Richard Perkins to said Ammi Cutter, dated the 18th day of January, A. D. 1832, acknowledged before William Minot, a justice of the peace, and recorded in the registry of deeds for the county of Middlesex, book 310, page 174; a deed of said Ammi Cutter, with release of dower of Hannah, his wife, to said Charles Tufts, dated the 1st day of February, A. D. 1834, acknowledged before Joseph Willard, a justice of the peace, and recorded in the registry of deeds for the county of Middlesex, book 329, page 345; another deed of said Ammi Cutter, with release of dower of Hannah, his wife, to said Charles Tufts, dated the 1st day of February, A. D. 1834, and recorded in the registry of deeds for the county of Middlesex, book 329, page 348; a contract between said Charles Tufts and said Emerson Wheeler, dated the 31st day of August, 1844, referred to in the answers of said Charles Tufts and said Emerson Wheeler; and a deed of said Charles Tufts to said Emerson Wheeler, dated the ninth day of September, A. D. 1844, acknowledged before H. M. Chamberlain, a justice of the peace, and recorded in the registry of deeds for the county of Middlesex, book 448, page 273, with the respective certificates of acknowledgment and recordings endorsed on the several respective deeds aforesaid; and the extracts from the leger and journal of said Charles Tufts' books, kept by him, and produced by him in the above cause, which extracts have been made and filed in the above cause, and printed for the convenience of the parties; and the extracts from the journals or account books of the said Anna Tufts, which are filed in the above cause and printed, and the original entries of which are, by the said parties in the

above cause, admitted and agreed to be in the handwriting of said Charles Tufts; and all the extracts, whether from the books of the said Charles Tufts, or the said Anna Tufts, or the said Ammi Cutter, or Cutter and Cummings, or Cutter and Perkins, annexed or referred to in any of the depositions of any of the witnesses in the above cause, and printed for the convenience of the parties; it being understood and agreed that each and every of the extracts aforesaid are to be subject to correction, by reference to the books from which they are respectively taken, if they shall, or any of them, be found to be not exact copies or transcripts; and that all the said books shall be and remain in court for the inspection of both parties, and that they may be referred to by either party at the hearing; saving, however, nevertheless, to the parties, and each of them, all just exceptions to the same, or any portion of the same, extracts and writings, which, if any, can be made to the original writings.

And, upon motion of the counsel for the plaintiff, stating that such agreement had been made between the parties by their respective solicitors, and praying that the same may be made an order of this court, and be observed and performed by the parties thereto, according to the true intent and meaning thereof, it is ordered accordingly, the counsel for the defendants consenting thereto.

By the court: JAS. B. ROBB, *Clerk*.

Extracts from the Legers of Cutter & Cummings, and Cutter and Perkins.

DR. *Interest account.* CR.

			1828		
			Dec. 31	Sundries	$496 88
			1829		
			Dec. 31	Sundries	527 92
			1830		
			May 4	Anna Tufts	1 56
			Nov. 3	Anna Tufts	1 92
			Dec. 31	Sundries	498 38
			1831		
			Dec. 31	Estate in Cambridge	195 53
1832			1832		
Jan'y 25	Tufts' estate	$8 85	Jan. 19	Anna Tufts	76 56
			"	Anna Tufts	8 85
			Dec. 31	Charles Tufts	182 59
			1833		
			Dec. 31	Charles Tufts	168 17
			1834		
			Feb. 5	Charles Tufts	15 39

DR. *Notes payable.* CR.

			1828		
			Sept. 27	Anna Tufts	$64 89
			1830		
			Nov. 3	Charles Tufts, (paid January 17th, 1832)	48 83

Dr.			*Cutter & Cummings.*		Cr.
			1829 Sept. 23	Anna Tufts	$44 47

Dr.			*Cutter & Perkins.*		Cr.
1832 Jan'y 25	Charles Tufts	$1,000 00	1832 Jan'y 25	Estate in Cambridge	$4,143 27
			Nov. 27	Charles Tufts	5 00

Dr.			*Ammi Cutter.*		Cr.
1832 Jan'y 19	Estate in Cambridge	$2,762 18	1832 Jan'y 13	Cash	$1,000 00
"	R. Perkins	1,381 09		J. Mathew's note	181 71

Dr.			*Richard Perkins.*		Cr.
1832 Jan'y 19	Estate in Cambridge	$1,381 09	1832 Jan'y 19	Ammi Cutter	$1,381 09

Extracts from the journals of Cutter and Cummings, and Cutter and Perkins.

1828	Estate in Cambridge.....Dr. to sundry Accounts.	
Sept'r 27	To Anna Tufts, for amount lands, &c., purchased at auction.....	$3,460 00
	Cash—For cash paid J. Fiske.....	8 00
	For cash paid premium insurance.....	5 35
	For cash paid recording deeds.....	1 75
	Anna Tufts, executrix.....Dr. to sundry Accounts.	
"	To Cash—For cash paid on account.....	3,395 11
	Notes payable, for our due bill to balance.....	64 89
	Sundry accounts.....Dr. to Interest account.	
Dec'r 31	Estate in P. street, for interest to January 1, 1829.....	442 44
"	Estate in Cambridge, for interest to January 1, 1829.....	54 44
		496 88
	Anna Tufts.....Dr. to Estate in Cambridge.	
"	For rent, 1 qr. due 27th inst.....	53 87
"	For rent, 1 qr. due 27th inst.....	81
	Notes payable.....Dr. to Anna Tufts.	
"	For endorsement on our note.....	54 68
1829	Anna Tufts.....Dr. to Estate in Cambridge.	
April 6	For rent due 27th ulto.....	54 68
1829	Estate in Cambridge.....Dr. to Cash.	
June 27	Paid S. Beals, for papering, &c.....	4 62
	Estate in Cambridge.....Dr. to Cash paid.	
July 11	Gregg & Hollis, amount their bills, paint.....	63 77
	Estate in Cambridge.....Dr. to William Masters.	
15	For amount his bill, painting, &c.....	51 08
	Anna Tufts.....Dr. to Estate in Cambridge.	
18	For rent due 27 ulto.....	54 68
	Sundries.....Dr. to Anna Tufts.	
Sept. 22	Notes payable, for balance our note given up.....	10 21
	Ammi Cutter, qr. rent.....	44 47
		54 68
	Anna Tufts.....Dr. to Estate in Cambridge.	
Oct'r 3	For rent due 27 ulto.....	54 68
	Estate in Cambridge.....Dr. to Cash.	
Dec'r 22	Paid assessment, Middlesex Mutual Insurance Office.....	4 50
	Sundries.....Dr. to Interest account.	
Dec'r 31	Estate in P. street, interest due January 1, 1830.....	308 70
	Estate in Cambridge, interest due January 1, 1830.....	219 22
		527 92
	Anna Tufts.....Dr. to Estate in Cambridge.	
31	For 1 qr. rent, due 27 inst.....	54 68
1830	Anna Tufts.....Dr. to Estate in Cambridge.	
April 14	For 1 qr. rent, due 27 ulto.....	54 68

Extracts—Continued.

	Anna Tufts.....Dr. to Estate in Cambridge.	
June 30	For 1 qr. rent, due 27 inst.....	$54 68
	Cash.....Dr. to Estate in Cambridge.	
July 20	Received of Jona. Lowe and Elias Kinsley for land sold them...	100 00
	Anna Tufts.....Dr. to Estate in Cambridge.	
Oct'r 22	For 1 qr. rent, due 27 ulto.....	54 68
	Anna Tufts.....Dr. to Sundries.	
Nov'r 3	To Interest account for this amount.....	1 92
	Notes payable, for our note to Charles Tufts.....	46 83
		48 75
	Sales.....Dr. to Anna Tufts.	
"	For this amount, bill of furniture, nett.....	376 83
	Anna Tufts.....Dr. to Estate in Cambridge.	
Dec'r 28	For 1 qr. rent, due 27 inst.....	54 68
	Sundries.....Dr. to Interest account.	
31	Estate in P. street, for interest due January 1, 1831.....	301 54
	Estate in Cambridge, for interest due January 1, 1831.....	196 84
		498 38
1831	Anna Tufts.....Dr. to Estate in Cambridge.	
April 5	For 1 qr. rent, due 27 ulto.....	54 68
	Anna Tufts.....Dr. to Estate in Cambridge.	
June 27	For 1 qr. rent, due date.....	54 68
	Void.	
1832	Charles Tufts.....Dr. to Estate in Cambridge.	
Jan'y 13	For amount purchase, July 1, 1831.....	4,014 00
	Interest on do., to January 1, 1832.....	120 00
	Void.	
	Charles Tufts.....Dr. to Interest account.	
"	For interest on $1,000, 13 days.....	2 16
	Cash.....Dr. to Ammi Cutter.	
"	For this amount, per receipt to Charles Tufts.....	1,000 00
1832	Estate in Cambridge.....Dr. to Sundries.	
Jan'y 19	To Anna Tufts, for this amount.....	273 40
	Sales No. 6, for this amount.....	376 83
	Interest account, for this amount.....	76 56
	Interest account, for this amount.....	8 85
		735 64
	Notes payable.....To Estate in Cambridge.	
"	For our note to Charles Tufts.....	46 83
	Ammi Cutter.....Dr. to Estate in Cambridge.	
"	For this amount.....	2,762 18
	Richard Perkins.....Dr. to Estate in Cambridge.	
"	For this amount.....	1,381 09

Extracts from the journals of Cutter and Cummings, and Cutter and Perkins.

1828	Estate in Cambridge.....Dr. to sundry Accounts.	
Sept'r 27	To Anna Tufts, for amount lands, &c., purchased at auction.....	$3,460 00
	Cash—For cash paid J. Fiske.....	8 00
	For cash paid premium insurance.....	5 35
	For cash paid recording deeds.....	1 75
	Anna Tufts, executrix.....Dr. to sundry Accounts.	
"	To Cash—For cash paid on account.....	3,395 11
	Notes payable, for our due bill to balance.....	64 89
	Sundry accounts.....Dr. to Interest account.	
Dec'r 31	Estate in P. street, for interest to January 1, 1829.....	442 44
"	Estate in Cambridge, for interest to January 1, 1829.....	54 44
		496 88
	Anna Tufts.....Dr. to Estate in Cambridge.	
"	For rent, 1 qr. due 27th inst.....	53 87
"	For rent, 1 qr. due 27th inst.....	81
	Notes payable.....Dr. to Anna Tufts.	
"	For endorsement on our note.....	54 68
1829	Anna Tufts.....Dr. to Estate in Cambridge.	
April 6	For rent due 27th ulto.....	54 68
1829	Estate in Cambridge.....Dr. to Cash.	
June 27	Paid S. Beals, for papering, &c.....	4 62
	Estate in Cambridge.....Dr. to Cash paid.	
July 11	Gregg & Hollis, amount their bills, paint.....	63 77
	Estate in Cambridge.....Dr. to William Masters.	
15	For amount his bill, painting, &c.....	51 08
	Anna Tufts.....Dr. to Estate in Cambridge.	
18	For rent due 27 ulto.....	54 68
	Sundries.....Dr. to Anna Tufts.	
Sept. 22	Notes payable, for balance our note given up.....	10 21
	Ammi Cutter, qr. rent.....	44 47
		54 68
	Anna Tufts.....Dr. to Estate in Cambridge.	
Oct'r 3	For rent due 27 ulto.....	54 68
	Estate in Cambridge.....Dr. to Cash.	
Dec'r 22	Paid assessment, Middlesex Mutual Insurance Office.....	4 50
	Sundries.....Dr. to Interest account.	
Dec'r 31	Estate in P. street, interest due January 1, 1830.....	308 70
	Estate in Cambridge, interest due January 1, 1830.....	219 22
		527 92
	Anna Tufts.....Dr. to Estate in Cambridge.	
31	For 1 qr. rent, due 27 inst.....	54 68
1830	Anna Tufts.....Dr. to Estate in Cambridge.	
April 14	For 1 qr. rent, due 27 ulto.....	54 68

		Anna Tufts.....Dr. to Estate in Cambridge.	
June	30	For 1 qr. rent, due 27 inst.....	$54 68
		Cash.....Dr. to Estate in Cambridge.	
July	20	Received of Jona. Lowe and Elias Kinsley for land sold them...	100 00
		Anna Tufts.....Dr. to Estate in Cambridge.	
Oct'r	22	For 1 qr. rent, due 27 ulto.....	54 68
		Anna Tufts.....Dr. to Sundries.	
Nov'r	3	To Interest account for this amount.....	1 92
		Notes payable, for our note to Charles Tufts.....	46 83
			48 75
		Sales.....Dr. to Anna Tufts.	
"		For this amount, bill of furniture, nett.....	376 83
		Anna Tufts.....Dr. to Estate in Cambridge.	
Dec'r	28	For 1 qr. rent, due 27 inst.....	54 68
		Sundries.....Dr. to Interest account.	
	31	Estate in P. street, for interest due January 1, 1831.....	301 54
		Estate in Cambridge, for interest due January 1, 1831.....	196 84
			498 38
1831		Anna Tufts.....Dr. to Estate in Cambridge.	
April	5	For 1 qr. rent, due 27 ulto.....	54 68
		Anna Tufts.....Dr. to Estate in Cambridge.	
June	27	For 1 qr. rent, due date.....	54 68
		Void.	
1832		Charles Tufts.....Dr. to Estate in Cambridge.	
Jan'y	13	For amount purchase, July 1, 1831.....	4,014 00
		Interest on do., to January 1, 1832.....	120 00
		Void.	
		Charles Tufts.....Dr. to Interest account.	
"		For interest on $1,000, 13 days.....	2 16
		Cash.....Dr. to Ammi Cutter.	
"		For this amount, per receipt to Charles Tufts.....	1,000 00
1832		Estate in Cambridge.....Dr. to Sundries.	
Jan'y	19	To Anna Tufts, for this amount.....	273 40
		Sales No. 6, for this amount.....	376 83
		Interest account, for this amount.....	76 56
		Interest account, for this amount.....	8 85
			735 64
		Notes payable.....To Estate in Cambridge.	
"		For our note to Charles Tufts.....	46 83
		Ammi Cutter.....Dr. to Estate in Cambridge.	
"		For this amount.....	2,762 18
		Richard Perkins.....Dr. to Estate in Cambridge.	
"		For this amount.....	1,381 09

Extracts—Continued.

	Ammi Cutter.....Dr. to Richard Perkins.	
Jan'y 19	For this amount.....	$1,381 09
	Charles Tufts.....Dr. to Cutter & Perkins.	
Nov'r 27	For 5 gallons fall oil.....	5 00
	Charles Tufts.....Dr. to Interest account.	
Dec'r 31	For interest on account.....	182 59
	Cash.....Dr. to Charles Tufts.	
"	Received of John Mathews, April 14th, 1832.....	181 71
	Cash.....Dr. to Charles Tufts.	
"	Received, April 1st.....	47 04
	Received, July 18th.....	44 33
	Received, October 1st.....	44 33
	Received, December 31st.....	44 33
1833	Charles Tufts.....Dr. to Cash.	
Nov'r 19	For 1 gallon whale oil.....	50
	For 5 gallons whale oil.....	2 50
	Charles Tufts.....Dr. to Interest account.	
Dec'r 31	For interest for 1833.....	168 17
	Cash.....Dr. to Charles Tufts.	
"	Received interest, 1833.....	368 17
1834	Charles Tufts.....Dr. to Interest account.	
Feb'y 5	For interest.....	15 39
	Cash.....Dr. to Charles Tufts.	
"	Received on account.....	400 00
	Sundries.....Dr. to Charles Tufts.	
"	Notes renewable for his note, due 5 years, from Feb. 5, 1834....	1,500 00
	Notes renewable for his note, due 1 year, from Feb. 5, 1834.....	500 00
	Notes renewable for his note, due 60 days, from Feb. 5, 1834....	300 00
	New account, for balance due.....	8 00
1835	Cash.....Dr. to Charles Tufts.	
March 7	Received in full.....	8 00

Mortgage and note produced and exhibited by Charles Tufts, who holds the same.

CAMBRIDGE, *Sept.* 9, 1844.

For value received, I promise to pay Charles Tufts, or order, six thousand dollars, on or before the first day of April next.

$6,000. EMERSON WHEELER.

Know all men by these presents, that I, Emerson Wheeler, of Brighton, in the county of Middlesex, and Commonwealth of Massachusetts, yeoman, in consideration of six thousand dollars to me paid by Charles Tufts, of Cambridge, county and commonwealth aforesaid, merchant, the receipt whereof is hereby acknowledged, do, by these presents, give, grant, bargain, sell, and convey, unto the said Charles Tufts, his heirs and assigns, a certain piece or parcel of land situated in Cambridge aforesaid, leading from Cambridgeport, so called, to the Powder magazine, and named Magazine street; northeasterly by land and ropewalk of William and James Arkerson; northwesterly, westerly, and southerly, on a proprietor's way or salt marsh belonging to the heirs of Ephraim Cutter and others, to the first mentioned road, or however otherwise bounded, containing twelve acres, be the same more or less, with all the privileges and appurtenances belonging to the same.

To have and to hold the above granted premises, with the privileges and appurtenances thereto belonging, to the said Charles Tufts, his heirs and assigns, to their use and behoof forever.

And I, the said Emerson Wheeler, for myself, and my heirs, executors, and administrators, do hereby covenant with the said Charles Tufts, and his heirs and assigns, that I am lawfully seized in fee of the afore granted premises; that they are free from all incumbrances; that I have good right to sell and convey the same to the said Charles Tufts as aforesaid; and that I will, and my heirs, executors, and administrators *will*, warrant and defend the same to the said Charles Tufts, his heirs and assigns, forever, against the lawful claims and demands of all persons.

Provided, nevertheless, that if the said Emerson Wheeler, or his heirs, executors, or administrators, pay to the said Charles Tufts, or to his heirs, executors, administrators, or assigns, the sum of six thousand dollars by the first day of April next, then this deed, as also a certain note, bearing even date with these presents, given by the said Emerson Wheeler to the said Charles Tufts, promising to pay the same sum at the time aforesaid, shall both be void, otherwise shall remain in full force.

In witness whereof, I, the said Emerson Wheeler, have hereunto set my hand and seal this ninth day of September, in the year of our Lord eighteen hundred and forty-four.

EMERSON WHEELER. [L. S.]

Signed, sealed, and delivered in presence of—
H. M. CHAMBERLAIN.

[REC. CLXXV, D. T. 1847]—48

The foregoing contains the whole case, including all the entries relative thereto in the books of account produced and exhibited.

RAND & FISKE, *for Plaintiff.*
S. E. SEWALL, *for Defendants.*

This cause was entered at the October term of this court, A. D. 1844, and was thence continued from term to term until this present term, when the court ordered the following decree to be entered:

Circuit court, U. S., Massachusetts district, October term, 1847.

ANNA TUFTS
vs.
CHARLES TUFTS et al. } In equity.

This cause came on to be heard at the October term of this court in the year 1846, and was further heard at the last May term of this court, and at this term, and was argued by counsel; and thereupon, upon consideration thereof, it was ordered, adjudged, and decreed, that the bill, and supplemental bill, of the said Anna Tufts be dismissed, and that the said defendants, Charles Tufts and Emerson Wheeler, recover of the said plaintiff their costs of suit taxed at .

By the court:

JAS. B. ROBB, *Clerk.*

Whereupon the plaintiff filed her petition for an appeal to the Supreme Court of the United States as follows, to wit:

In the circuit court of the United States for the first circuit and district of Massachusetts, in chancery, October term, A. D. 1847, between Anna Tufts, plaintiff, and Charles Tufts & Emerson Wheeler, defendants.

The petition and appeal of Anna Tufts, the plaintiff in the above cause, respectfully shews, that your petitioner is advised that the decree of the said court, made in the above cause at the present term of the said court, whereby her bill and supplemental bill, in the above cause, are dismissed with costs, and every part thereof, is erroneous, and ought to be reversed; and that your petitioner respectfully does appeal therefrom to the Supreme Court of the United States, and offers such good and sufficient security as by law is in such case required.

Wherefore your petitioner prays that her said appeal may be allowed, and that the same, with a transcript of the record in the above cause, may be certified to the said Supreme Court; that the same decree, if found to be erroneous by the same Supreme Court, may be reversed, and that such other order and decree may be made therein as shall be agreeable to equity and good conscience; and that this appellant may be fully restored to all which she has lost by reason of the said decree. And your petitioner will ever pray, &c.

ANNA TUFTS.
BENJ. RAND,
A. H. FISKE,
Counsel for plaintiff.

Which was allowed by the court, to wit:

Circuit court, U. S., Massachusetts district, October term, 1847.

TUFTS vs. TUFTS et al. } In equity.

November 22, 1847.

And now it appearing to the court here that said petitioner has filed a good and sufficient bond as security, as aforesaid, it is ordered that the appeal prayed for in said petition be allowed.

By the court:

JAS. B. ROBB, *Clerk*.

I, Jas. B. Robb, clerk of the circuit court of the United States, for the first circuit and district of Massachusetts, certify that the foregoing is a true transcript of the record of said cause.

In testimony whereof I have hereunto set my hand, and affixed the seal of the said court, this tenth day of December, in the year of our Lord one thousand eight hundred and forty-seven, and in the seventy-second year of the independence of the United States of America. [SEAL.]

JAS. B. ROBB, *Clerk*.

Filed December 13, 1848.

INVENTORY OF P. TUFTS, JR., ESTATE.

COMMONWEALTH OF MASSACHUSETTS, *Middlesex, ss:* The honorable Samuel P. P. Fay, esq., judge of the court of probate in and for the county of Middlesex aforesaid, to James K. Frothingham, esq., John Tufts, yeoman, and Edward Cutter, gentleman, all of the county of Middlesex, greeting:

You are hereby appointed and empowered, as three suitable persons, to take an inventory of all the estate whereof Peter Tufts, jr., late of Cambridge, in said county of Middlesex, esquire, died seised and possessed in the commonwealth aforesaid, and, according to your best skill and judgment, truly and justly to appraise the same, as soon as may be, in dollars and cents, according to the present value thereof, being first sworn to the faithful discharge of that trust; and when you shall have completed the said inventory as aforesaid, you are to deliver the same, together with this warrant, with your doings thereon, sealed up to the executrix of the last will and testament of the said deceased, who is hereby accordingly directed so to return and exhibit the same on oath, into the probate court of said county of Middlesex, within three months from the time of taking upon herself that trust.

Witness the said Samuel P. P. Fay, esq., judge as aforesaid, under his hand and seal official, this sixteenth day of August, in the year of our Lord one thousand eight hundred and twenty-five.

S. P. P. FAY, *Judge Probate.*

Countersigned.

Reg.

MIDDLESEX, *ss:*

September 22, *A. D.* 1825.

Then the above named James K. Frothingham, John Tufts, and Edward Cutter, personally appeared and made oath, that they would faithfully and impartially discharge the trust reposed in them by the foregoing warrant.

Before me, S. P. P. FAY, *J. P.*

Copy. Attest,

ISAAC FISKE, *Reg'r.*

An inventory of the estate of Peter Tufts, jr., late of Cambridgeport, in the county of Middlesex, esq., deceased, as appraised by us, the subscribers, duly qualified for that purpose, viz:

REAL ESTATE.

The homestead, being about twenty-four acres of land, (partly salt marsh,) with a dwelling-house, barn, and out-houses, situated at Cambridgeport, valued at three thousand eight hundred and fifty dollars	$3850 00
Marsh lots bought of Halls & Cook, about four acres, valued at three hundred and twenty-five dollars	325 00
Marsh lots bought of Jonas Pierce, about one acre and half, valued at one hundred and fifty dollars	150 00
Marsh lot bought of Nathan Adams, valued at forty dollars 50-100	40 50
House lot bought of T. Kidder, valued at seventy dollars	70 00
1 share in the school-house estate, valued at fifty dollars	50 00
Fifty-three and half pews in the Universalist meeting-house in Cambridgeport, valued at one thousand dollars	1000 00
Two pews in the Universalist meeting house in Charlestown, valued at eighty dollars	80 00
Two horse sheds near said meeting-house in Charlestown, valued at twenty dollars	20 00
Lot of land in West Cambridge, containing nineteen acres and three-fourths and 22 poles, valued at eighty-five dollars per acre,	1690 43
Lot of land in West Cambridge, containing seven acres three-fourths and 20 poles, valued at sixty dollars per acre	712 50
Lot of land in West Cambridge, bought of Walter Russell, three acres and three-fourths, valued at fifty dollars	50 00
Lot of woodland in Stoneham, six acres and half, valued at sixty-five dollars.	65 00
Lot of woodland in Medford, fourteen acres and fourteen poles, valued at two hundred and ten dollars	210 00
One undivided thirteenth part of a lot of woodland, in Lexington, containing ten acres, valued at thirty-five dollars	35 00
	$8348 43

PERSONAL ESTATE.

Mahogany secretary and bookcase, 17; do. card table, 4	$21 00
Hair covered sofa, and two crickets. 18; looking-glass, 5.50	23 50
12 Windsor chairs, 6; lolling chair 1.50	7 50
Mahogany light stand, 1; brass fire set, 5	6 00
Lane's patent stove, 18; bellows and brush, .75	18 75
Mahogany knife case, .50; masonic diploma, .75	1 25
Dining sets of crockery, 13; tea set, 4	17 00
9 bowls, (blue,) .67; 5 pr. qt. decanters, 3	3 67
30 tumblers, 1.25; 23 wines, 1 33	2 58
Cheese and bread tray, and 10 waiters, 1.25; silver spoons and tongs, about 20 ozs, 22	23 25
3 dozen knives and forks, black handle, 5 25; floor carpet and rug, 4.67	9 92
Table (4 ft.) and cloth, 6; bucket and bags, 4 67	10 67
Venetian stair carpet and rods, 4.50; entry lamp, 1	5 50
Mahogany sideboard, 6; do. pr. card table, 6.33	12 23
6 Windsor chairs, and rocking do., 3; looking-glass, 4 17	7 17
Lane's patent stove and dogs, 9; copperplate plan of town, 10	19 00
Maps of U S., New York, Boston, and British possessions in N. A.	5 00
Plain table and stoves, brass compass and staves, wooden compass, 2 brass and 2 iron chains, and case of instruments	19 00
Glass globe and 2 pitchers, 1.50; floor carpet, 1	2 50
Small globe, spy glass, and 2 eprouvetts	3 75
Pair brass candlesticks, snuffers and tray	1 00
	$220 34

Inventory—Continued.

Lot of crockery ware, 1.75; castor, coffee and tea pot, and cream, 1	$2 75
Steel yards, scales and weights, sheep and horse, shears and large balance	7 67
Maple table, 4 feet, 1.50; 6 Windsor chairs, 1.50	3 00
Round stand	35
Mahogany desk and book case, 7; clock and case, (8 day,) 10	17 00
4 old tables, and 9 chairs, 3; looking-glass, 3	6 00
James' pat. stove and andirons, 10.67; cradle, .50	11 17
Crockery and glass ware, 2.25; curtains, 3 windows, .50	2 75
Mahogany bureau, 16; mahogany work table, 4	20 00
Pair looking-glasses, 12; dressing glass, 1.50	13 50
Washstand, bowl and ewer, 2.50; high post bedstead, 7	9 50
Bed, bedding and curtains, No. 1, 21.50; easy chair and covering, 5	26 50
Floor carpet and hearth rug, 10.50; 4 small chairs and 2 crickets, .75	11 25
Fender, shovel, tongs, hooks, brush and bellows, 5.25; 15 quires paper, 3.75	9 00
Shaving apparatus, thermometer and monument certificate	1 67
Spirit case, assorted, 3.50; china tea set, 2.50	6 00
Maple bureau, 1.50; looking-glass, mahogany frame, .75	2 25
Field bedstead, 3 67; bed and bedding, No. 2, 17.34	21 01
12 Windsor chairs, 1 rocking do., 7; cot bedstead, 3	10 00
Toilet table, and trunk, .75; bass viol, 4	4 75
2 pair steps, 4; American flag, 2	6 00
Bureau, 5; portable desk, 2	7 00
Pembroke table, 2; case of drawers, 3	5 00
Washstand, bowl and ewer, 1; bed pan and syringe, 1.50	2 50
8 chairs, 2 rocking and 1 arm do., 6.50; high post bedstead, 3 67	10 17
Bed and bedding, No. 3, 19; crib bed and bedding, 5	24 00
5 window curtains, 1.50; 3 brass lamps, 1	2 50
Tin case and bottles, 1; 17 pr. l. sheets, 12	13 00
16 pr. pillow cases, 3; 10 yds. gingham, 1.25	4 25
9 table cloths, 4.59; 19 towels, 1.50	6 00
Case of drawers, 2; corded bedstead, bed and bedding, No. 4, 11 34	13 34
Children's bed and bedding, 7.33; looking-glass, 50	7 83
Light stand, bowl and ewer, warming pan and stove	1 50
3 beds and bedding, Nos. 5, 6 and 7, with corded bedsteads	30 00
1 arm chair, and other chairs, .75; 4 chests and 1 trunk, 2.50	3 25
1 bedstead and cord, .75; spinning wheel, reel and swifts, 1	1 75
	$544 55
Stone churn and 17 jugs, 2.87; 3 demijohns, 1.50	4 37
Nails, about 25 lbs., and brads, 1.70; firkins and boxes, .50	2 30
5 pieces Liverpool ware, 1.75; oil cannister, 1	2 75
Lot of tin ware, 1; pewter, about 17 lbs., 2	3 00
10 pieces brown ware, 50; box of knives and forks, 1	1 50
3 flat irons, 2 shovels, 2 pr. tongs, loggerhead, kettle, pan and dogs	2 25
2 chopping knives, sausage filler, and 2 cleavers	1 00
1 gun, 4; frying pan, .75; table, chairs and bellows, 1	5 75
Wilson's patent cooking stove, 21.67; 2 iron back logs, 1	22 67
Coffee mill, 3 pails, clothes' line, meal chest	2 50
5 japanned lamps, and 2 candlesticks, .75; brass kettle, 2	2 75
Bricks, about 1500, 7.50; 1 pipe and one barrel of cider, 8	15 50
129 junk bottles, at .5, 6 45; 5 pipes and hogsheads, 7.50	13 95
6 cider barrels, 3.00; lot of barrels and kegs, 2.75	5 75
3 case bottles, .18; 2 casks and vinegar	3 68
1 wagon, with hay rigging and harness, 20; 1 wagon, No. 2, 12	32 00
5 ploughs, 6; harrow and cheese press, 3.50; 3 scythes, 1	10 50
5 axes and hatchets, adze, 3 saws, beetle and wedges, 2.50; 10 rakes, 1.75	4 25
Pump hook, 2 ditching knives, 2 iron rakes, iron bar and pickaxe	2 17
7 shovels, 2 spades, and dung forks	4 00
8 hoes and 6 garden hoes, 4 runners, 5 pitch forks, reel and line, &c., &c.	5 17
3 pr. chain traces, and 3 plough chains, 3; hay cutter, .75	3 75
Riding saddle and bridle, 2.75; cart rope and part of harness, 1	3 75

Inventory—Continued.

3 sickles, 2 post hole axes and spoon, 1; 3 grindstones, 4	$5 00
Single fall, and 2 pr. blocks, 1; large iron pot, and lot old iron, 7	8 00
Grain chest, and 7 casks and barrels, 3; saddle bags and old saddle, .50	3 50
Planes, saws, augurs, drawing knife, adze, bitts and stock, vice, anvil, &c	8 00
2 tons hay, 30; horse sled and 3 old wheels, 6	36 00
Yellow horse, 35; bay horse, 50; cow, 15	100 00
2 hogs, 20; 1 sow, 6; 10 cords wood. 40; wheelbarrow, 1.25	67 25
Yellow chaise and harness, 110; green chaise and harness, 50	160 00
8 qr. casks powder, 30; 2 do. cartridges and balls, 4	34 00
4 ullage qr. casks do., 4; 2 ullage qr. casks do., 1	5 00
4 qr. casks Dupont's do., 6; 227½ lbs. powder, at 26c 59.15	65 15
54 qr. casks powder, loaned to sundry manufacturers	150 00
	$1341 76
540 powder casks and barrels, at 5 cts	27 00
6 powder troughs, large iron kettle and pincers	2 00
Half of a building, the whole measuring 36 by 15, finished inside and out, with a shed	30 00
2 anchors and cable, scale beam, bench, boat, sails and rigging, with oyster tongs	7 67
Sleigh and harness, 2 skins and bells	25 00
Pump logs, fencing stuff, &c	3 00
4 wheelbarrows, 5; 2 do., (at Roxbury,) 2	7 00
CLOTHING, viz.	
5 coats, 5 pr. pantaloons, 6 waistcoats, leather jacket, shirts, drawers, handkerchiefs, gloves, boots, shoes, &c	54 75
Watch, spectacles, and umbrella	10 00
2 large bibles, 10; Doddridge and Orton's expositions, 4 vols., Universalist magazine, 1 do., gospel visitant, 5	15 00
Lot of school books, 2.75; spectator, 8 vols., 2; guardian, 3 vols., .75	5 50
Law and justice of peace books, 2; miscellaneous, 40 vols., and pamphlets, 5	7 00
1 fowling gun, 2.50; 1 bake pan, .50	3 00
Amount of personal estate,	$1538 68

Additional inventory of the estate of Peter Tufts, jr., late of Cambridge, in the county of Middlesex, esquire, deceased, as taken by the subscribers, who were duly appointed and qualified to take an inventory of said estate.

REAL ESTATE.

A lot of land in the town of West Cambridge, on the Cambridge and Concord turnpike, a three sided piece of about a quarter of an acre, lying between the northerly side of said turnpike and other land of said Tufts, valued at forty dollars	$40 00

PERSONAL ESTATE.

Two shares in the Andover and Medford turnpike, numbered twenty-one and twenty-two, valued at one hundred and twenty-five dollars each	250 00
Samuel P. Teel's note, secured by a mortgage, note dated March 10th, 1824, for $424.79, interest two years to March 10th, 1826, $50.97, valued at four hundred seventy-five dollars seventy-six cents	475 76
	$765 76

Charlestown, March, 1826.

JAMES K. FROTHINGHAM,
JOHN TUFTS,
EDWARD CUTTER,
} Appraisers.

MIDDLESEX, *ss*:

May 16, 1826. Sworn to and ordered to be recorded, &c.
S. P. P. FAY, *Judge Probate.*

Copy. Attest,
ISAAC FISKE, *Reg'r.*

Amount of personal estate, - - - -	$1,538.68
Amount of real estate brought forward, - -	8,348.68
Total, - -	$9,887.11

October 17, 1825.

The following notes were exhibited as belonging to the estate, viz:

Thomas Tufts, August 19. 1824	$2,000 00
Ammi Cutter, December 16, 1824	340 00
Samuel Pond, March 1, 1825	133 55
Zaccheus Whitney, July 21, 1824	98 00
Do. do. payable to J. & M. Livermore, January 27, 1823	32 84
Joseph Jennings, February 9, 1825	81 80
John Tufts, January 15, 1825	10 00
John Tufts, jr., March 5, 1825	34 61
Samuel Pierce, January 13, 1824	20 00
	$2,750 80

JAMES K. FROTHINGHAM,
JOHN TUFTS,
EDWARD CUTTER.

COMMONWEALTH OF MASSACHUSETTS,
Middlesex, ss:

At *at* court of probate, holden at Cambridge, in and for said county, the eighth day of November, A. D. 1825, the foregoing having been duly returned, and this day exhibited on oath by Anna Tufts, the executrix of the last will and testament of said deceased, as a true and perfect inventory of all the estate of said deceased that has hither come to her hands, possession, or knowledge; and the said executrix having made oath, that if any further estate of said deceased shall hereafter come to her possession or knowledge, she will render a just and true account thereof into the probate office, to be of record herewith; it is therefore decreed by the judge of said court, now here, that the same be, and it is hereby accordingly accepted, and ordered to be recorded.
S. P. P. FAY, *Judge Probate.*

Copy. Attest,
ISAAC FISKE, *Reg'r.*

FIRST ACCOUNT OF ANNA TUFTS, EXECUTRIX.

First account of Anna Tufts, executrix of the last will and testament of Peter Tufts, jr., late of Cambridge, in the county of Middlesex, esquire, deceased.

The said executrix charges herself with having received the personal estate of said deceased, amounting, as per inventory, to the sum of		$1,538 68
And, by additional inventory, the sum of		725 76
		$2,264 44
And the following sums in addition thereto, viz:		
I. Gould, on account	$22 50	
R. M. Barnad, on account	18 77	
Warland & Marshall, on account	2 05	
I. Fisher & Co., on account	7 05	
Loring & Shaffer, on account	40 12	
J. C. Proctor, on account	8 33	
Sanford & Fales, on account	37 39	
W. R. Gray, on account	7 19	
Shudrich, Gray & Co., on account	58 28	
Skinner & Hurd	10 30	
E. T. Hastings, on account	8 10	
Childs & Richards, on account	3 80	
J. Thompson, on account	15 10	
Allen & Whitman, on account	15 78	
Bryant & Sturgis, on account	4 75	
Richard Sullivan, on account	5 10	
Town of Medford, on account	3 50	
		268 31
E. Copeland, on account	10 47	
D. Henckly, on account	8 30	
J. & S. Perry, on account	5 85	
J. Oden, on account	11 58	
S. Hills & Co	4 90	
A. Aspinwall	3 20	
J. Simonds	0 63	
Sibley & Mars	3 25	
Harris & Brown	14 02	
Goodnow, Sewall & Kent	3 85	
David Hale	27 57	
Putman & Lander	23 08	
Benjamin Rush	6 70	
J. C. Perkins & Co	3 25	
J. Wigglesworth	2 29	
Geo. Danault	2 07	
A. H. Cunningham	0 35	
G. Lyman	1 65	
		131 41
Messet & Ward, on account	0 30	
Downe & Baldwin	0 55	
Barnard and Thacher	0 70	
B. & Nevers	0 93	
R. Lyon	0 78	
S. Dingley	0 85	
Gurney & Packard	13 45	
J. Wheelwright	0 40	
W. Ward	7 30	
Chandler & Howard	0 77	

First Account—Continued.

E. Hathaway	$0 55	
Timothy Dodd	81 13	
W. S. White	0 65	
J. F. Baldwin	25 10	
Payson & Nurse	3 83	
Town of Brookline	1 25	
Hobbs, Bemis & Co	5 10	
George Oden	34 00	
Town of Charlestown	31 50	
T. Davin	2 48	
Ship Falcon	2 88	
P. B. Hovey	8 64	
J. Hastings	2 40	
		$225 24
J. Harlow	1 08	
H. Van Voorhis	3 50	
D. T. Curtis	1 16	
Makepeace & Cook	54 44	
Jonathan Teele, jr.	6 25	
H. Sheafe	3 80	
P. R. Russell	2 80	
W. Bell, note	36 00	
D. A. Sanborn	38 10	
Dan. Goddard	21 85	
John Cutter	9 00	
Nathan Whittemore	25 00	
John Hooper	7 70	
John Tufts	7 00	
Charles Tufts, for powder sold to pay expenses of storage, &c.	47 30	
Do. for 6 casks of powder not rendered in inventory	24 10	
Do. 2 do. do. do.	10 00	
		297 68
The following sums received from sale of real estate, viz:		
Of A. Horton, for lot of land in Cambridgeport	105 00	
Charles Wellington, for land in Lexington	24 00	
William H. Richardson, for land in Medford	183 14	
Samuel Whitney, for land in West Cambridge	2,732 28	
William Wyman, jr., land in Stoneham	86 12	
Ammi Cutter and Daniel Cummings, for buildings and land, being the homestead in Cambridgeport	3,010 00	
Do. do. marsh land, 4 acres 16 poles, at $100	410 00	
Do. do. for do. 1 and ¼ at 30	40 00	
Universalist Society in Cambridgeport, balance on pews sold to pay taxes	75 74	
Sundry persons for 12½ pews in Universalist meeting-house at Cambridgeport	105 00	
A. H. Fillebrown, for lot of land in West Cambridge	25 00	
		6,796 28
		$9,983 36
The executrix charges herself also with the following sums:		
Collected of Z. Whitney on note	$59 26	
Sale of horse shed	11 00	
Cash collected of W. R. Mason on account	61 54	
Sale of pews, (gallery)	2 11	
Cash of Z. Green on account	115 62	
Interest on money loaned	200 03	
		449 36
		$10,432 72

First Account—Continued.

	And prays allowance for the following charges and sums paid, viz:	
	Paid printing executor's notice	$1 25
	Amos Cheney's bill	16 50
	David Oliver's	14 00
	J. B. Reed	4 00
	Abijah Cutter's	3 00
1825.	Funeral expenses, being clothing for family	76 23
	Attending at West Cambridge, setting off dower to Mrs. Locke	3 00
	Paid referees assigning dower to Mrs. Locke	3 10
	For expenses of agent to New York	43 00
	Tax on pews in meeting-house in Charlestown	54 21
	Dr. S. Plimpton's bill	150 50
1826.	Dr. Shattuck	44 00
April.	Certificate from Register's office	1 42
	Expenses of agent taking administration in New York	371 50
	Writing and posting notifications in 8 houses for sale of real estate	8 00
	Paid Benjamin Badger, surveying land	1 25
	Taxes in Stoneham, for 1824, '25, and '26	61
	Taxes in Medford, for 1825 and '26	5 52
	Taxes in West Cambridge, for 1824, '25, and '26	22 42
		$525 11
1827.	Paid taxes in Cambridge, for 1825, '26, and '27	73 73
	3 years insurance on real estate	46 80
	James Russell, esq., account	15 00
	Appraisers' bill	30 50
	Commissioner's charges	69 00
	Register of deeds, examining records	2 10
	Bullard & Wright's bill	8 25
	J. S. Mitchell, esq., attorney, at New York	75 00
	Joshua Avery's bill	7 00
	Writing and posting notifications in 4 towns—sale of real estate, March 10, 1828	6 10
	Auctioneer's commissions, selling estate, 10th	46 42
	Expenses attending sale at house, 10th	6 00
	James K. Frothingham as agent, expenses and services	245 38
	Loss on sale of personal estate	392 52
	My time and care in attending courts, making out and settling accounts, and general administration	300 00
	Hon. Asahel Stearns' bill	8 00
	For appraised value of 54 quarter casks powder, which never came to the hands and possession of executrix	150 00
	For the appraised value of "bay horse," which died in her possession before the sale	50 00
	For the appraised value of swine	26 00
	For brick used in the cellar	7 50
	The said executrix claims to have allowed this amount, being the amount of note and mortgage against Samuel P. Teel, which was held in trust by the deceased, and claimed by Henry Wellington, guardian of Lucy Ann Teel, appraised at	475 76
	For the amount paid Asahel Stearns, esquire, attorney, to Samuel Haven, and others, to release the estate against their claim of $8972 40, as allowed by commissioners	837 81
	Services and expenses necessarily attending the settlement of this account	20 00
		$3,423 78

First Account—Continued.

Disallowed and deducted by order of judge, in the decree below..	$662 67	
	2,761 11	
Balance in hands of executrix for distribution.....	7,671 61	
		$10,432 72

First account lodged March 25th, 1828. Order of notice 4th Tuesday of April, at Woburn.

April 22, 1828. And now it appearing that the citation has been duly served, and James Russell and Abner Bartlett, esquires, appear for sundry creditors to said estate, and by consent of parties, on motion of executrix, this account is postponed to the 3d Tuesday of May next, at Cambridge.

J. FISKE, *Register.*

MIDDLESEX, *ss:*

In probate court, August 13, 1828. The foregoing account having been exhibited by Anna Tufts, the said executrix, after due notice to all persons interested, certain creditors, by their attorneys, Bartlett and Russell, appeared and objected to the allowance of sundry charges in said account, as follows, viz:

For mourning.....		$76 23
Taxes on real estate in 1826 and 1827.....		59 10
For insurance on real estate from September 10, 1825, for three years.....		46 80
Three charges, viz.:—for advertising, auctioneer's commissions.....	$6 00	
and expenses of selling real and personal estate, March 10,....	40 42	58 42
1828.....	6 00	
Value of a horse, which died.....		50 00
Loss on sale of personal estate.....		392 12
Amounting altogether to the sum of.....		$682 67

And after having fully heard the parties thereon, seen the evidence touching the same, and examined said accounts upon oath, I do hereby order and decree that the whole of said accounts, deducting twenty dollars as a reasonable allowance for the expenses of advertising and selling the real estate sold on the 10th of March, be disallowed, and that the resulting sum of $662 67 be struck out of the foot of the charges against the estate, and that the residue of the account, which is not objected to, except the claim made for the services of said executrix and her agents for settling the said estate, be, and the same is hereby, allowed and ordered to be recorded.

S. P. P. FAY, *Judge Probate.*

Copy. Attest: ISAAC FISKE,
Register.

Order of distribution of P. Tufts, jr., estate.

[L. S.] STATE OF MASSACHUSETTS, *Middlesex, ss:*

To all people to whom these presents shall come, Samuel P. P. Fay, esq., judge of probate, &c., in said county, sendeth greeting:

Know ye, that it appears to me from the first account of Anna Tufts, executrix of the last will and testament of Peter Tufts, jr., late of Cambridge, in said county, esquire, deceased, testate, this day allowed of record in the probate office, that a balance rests in her hands, amounting to seven thousand six hundred and seventy-one dollars and sixty-one cents.

It also appears to me, from the report of the commissioners by me appointed and sworn to receive and examine the claims of the several creditors to said estate, which has been filed more than thirty days in the probate office, that the whole claims liable to be liquidated amount to nine thousand one hundred and ninety-four dollars and thirty-three cents.

I do therefore order said administrator to pay to the following persons the sums of money affixed to their respective names, they being all the creditors mentioned in said report who have claims subject to liquidation; the payments being in the proportion of eighty-three cents for every dollar of their respective debts; which is all they can receive till some further discovery of said deceased's estate. The sum of forty dollars and thirty-two [cents] is left in said administrator's hands to pay the future costs of administration.

To Samuel Spring	$287 18
Samuel Spring	91 22
Samuel A. Locke	310 69
Benjamin Phipps	8 05
Josiah Oakes	60 12
John Matthews	184 62
Charles Hunnewell	2 55
Samuel Allen	1 83
Richard Frothingham	1 38
Thomas Rand	2 52
Charles Tufts	255 55
N. & R. Vinal	7 84
James Russel	18 34
Samuel Smith	45 75
Thomas Mason	27 70
Joshua Avery	235 86
Jeremiah Wetherbee	6 33
	$1,547 53
Hannah Blaney	66 57
Joseph Tufts	22 40
Abel R. Fillebrowne	109 93
Henry Wellington	141 64
Franklin Sawyer	100 41
Josiah Mason, jr.	93 13
Jacob Pierce, adm'r	3,363 99
William Leathe	31 12
Henry Willington, guardian	245 61

Order of Distribution—Continued.

To Jonas Wyeth	$284 37
David Hutchinson	18 57
Thomas Whittemore	29 07
James K. Frothingham	20 18
Anna Eliza Locke	212 13
Amos Lock's guardian	148 42
Amos Lock's guardian	148 42
J. Soof	13 70
	$5,157 46
C. Morse	16 23
Mrs. Fillebrown	8 30
N. G. Mason	2 42
H. N. Fiske	14 29
Eben. Fuller, jr.	8 30
Thomas Short	29 05
Laffin, Fowle & Co.	166 85
State Bank	458 08
Dr. S. Plympton	35 31
Charles Tufts, of Charlestown	12 72
John Davenport	17 65
Elijah Vose	1 60
Franklin Tufts	123 63
Charles Brooks	31 87
	$926 30
	5,157 46
	1,547 53
	$7,631 29
Reserved as above	40 22
	$7,671 61

Given under my hand and seal, at Cambridge, this twelfth day of August, A. D. 1828. S. P. P. FAY.

Copy. Attest: ISAAC FISKE, *Register*.

We, the subscribers, have severally received of Anna Tufts, executrix, the sums set against our respective names, in full for the within dividend.

Henry Wellington, guardian, and Ann Eliza Lock, by Nathan Adams, assignee	$458 04
Samuel Spring	378 40
Joseph Tufts	22 40
Samuel A. Lock, by A. H. Fiske, his attorney	310 69
Amos Lock, guardian to H. & A. Tufts, by his attorney, per order James Russell	296 84
Joshua Avery, by his attorney, James Russell	235 86
James Russell	18 34
Benjamin Phipps	8 05
Charles Hunnewell	2 55
Henry Wellington and Abiel H. Fillebrown, by their attorney, James Russell	141 64 109 93
N. & R. Vinal, by Robert Vinal	7 84

Order of Distribution—Continued.

Hannah Blaney, her mark X	$66 57
Joseph Osborn, administrator of Joseph Hutchinson's estate	18 57
John Davenport	17 65
Thomas Whittemore	29 07
Jacob Pierce, administrator	3,395 11
Sylvanus Plympton	35 31
John Mathews	184 62
Josiah Mason, jr., for Josiah Mason, jr., & Co	107 50
Augustus Wyeth, executor of the estate of Jonas Wyeth	284 37
Josiah Oakes	60 12
Richard Frothingham	1 38
Charles Brooks	31 87
Lemuel Smith	45 75
Jonathan Call, district clerk State Bank	458 08
William Leathe, for the late firm of Laffin, Forber & Co	31 12
Williams Fowler	166 85
Franklin Tufts	123 63
Josiah Mason	93 13
Franklin Sawyer	100 41
Charles Tufts	255 55

Copy. Attest:

ISAAC FISKE, *Register*.

ANNA TUFTS, in equity,
vs.
CHARLES TUFTS et al.

MAY TERM, 1845.

Aug. 15, '45. Publication of testimony ordered, but depositions may be filed until Saturday, the 16th of August.

OCTOBER TERM, 1845.

October 16, '45. To be heard this term.
April 17, '46. Continued.

[Extract from docket.]

J. B. ROBB, *Clerk*.

I, James B. Robb, clerk of the circuit court of the United States, for the first circuit, within and for the district of Massachusetts, certify, that the foregoing is a part of the record of the cause entitled Anna Tufts, in equity, vs. Charles Tufts et al., in said court, and appealed at the October term thereof, A. D. 1847, to the Supreme Court of the United States.

In testimony whereof I have hereunto set my hand, and affixed the seal of said circuit court, this 26th day of February, A. D. [SEAL.] 1849, and in the seventy-third year of the independence of the United States of America.

JAS. B. ROBB, *Clerk*.

The foregoing part of the record of the circuit court in the above case, having been by accident omitted from the transcript sent by the clerk of said court to the Supreme Court of the United States, it is agreed that it shall be inserted in its proper place therein, and become part thereof.

A. H. FISKE, *for the Plaintiff.*
S. E. SEWALL, *for the Defendants.*

Filed 3d March, 1849.